

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicants:	Edward B. Keller, et al.	Art Unit:	3623
Application No.:	10/757,166	Examiner:	Susanna M. Diaz
Filed:	January 13, 2004	Confirmation No.:	3545
Title:	SYSTEM AND METHOD OF IDENTIFYING INDIVIDUALS OF INFLUENCE	Docket No.:	07055878

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BRIEF ON APPEAL UNDER 37 C.F.R. § 41.37

This Brief supports the appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner dated February 25, 2008, in the application identified above. Appellant filed the Notice of Appeal on May 27, 2008, and now submits this Brief pursuant to 37 C.F.R. § 41.37. July 27, 2008 was a weekend, therefore, this Brief is timely filed this Monday, July 28, 2008.

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
Cover Page	1
This Table of Contents	2
Real Party in Interest	3
Related Appeals and Interferences	4
Status of Claims	5
Status of Amendments	6
Summary of Claimed Subject Matter	7
Grounds of Rejection to Be Reviewed on Appeal	8
Argument	9
I. The Obviousness Rejection Under 35 U.S.C. § 103 Is Improper and Should Be Reversed	9
A. <i>The Combined References Do Not Teach All Claim Elements</i>	10
B. <i>The References Teach Away from the Claimed Invention</i>	12
C. <i>The Examiner Improperly Relies on Hindsight for Support</i>	14
Conclusion	16
Claims Appendix	
Evidence Appendix	
Related Proceedings Appendix	

REAL PARTY IN INTEREST

The real party in interest in this appeal is GfK U.S. Holdings, Inc., the assignee of record, which is a subsidiary of GfK Holding, Inc. and GfK North American Investment GmbH (collectively, the "Appellant").

RELATED APPEALS AND INTERFERENCES

There are no other prior or pending appeals, interferences or judicial proceedings known to the Appellant, the Appellant's legal representative, or the assignee that is related to, or will directly affect or be directly affected by, or have a bearing on the decision of the Board of Patent Appeals and Interferences in this Appeal.

STATUS OF CLAIMS

Claims 1-11, which are attached hereto in Claims Appendix A,¹ have all been rejected and are subject to this Appeal. Claims 12-22 were previously cancelled and are not on appeal.

¹ As used herein, the citation "*Cl. App. __, at __: __*" refers to the Claim Appendix document attached hereto, as well as the page and line of the citation.

STATUS OF AMENDMENTS

No amendments were filed subsequent to the final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

The claimed subject matter generally involves a process that can be used to identify individuals who have a significant probability of affecting the decisions of others (so-called “influentials”) using only demographic information. In general, this process involves identifying informational data common to these individuals that is not normally associated with a person being considered influential (“non-influential” informational data). *Cl. App. B*, at 4:17-21. Despite the fact that this data is not normally associated with a person being influential, the claimed subject matter provides for the application of this non-influential informational data to identify likely influentials in the population at-large. *Id.* at 4:21-23. In addition, because the non-influential informational data consists of pre-existing demographic information, this process can be used to identify influentials using publicly available demographic information *alone*, and without having to repeatedly administer targeted, behavioral surveys to individual populations. *Id.* at 4:23-5:3.

The claimed embodiments are directed to methods for identifying from demographic data those individuals in a population that have a greater probability of influencing the choices made by others. According to the method, demographic data is obtained for a first population of individuals who have been classified as being either influential or non-influential, such as through the use of questionnaires. *Id.* at 16:14-20, 17:15-20. From the demographic data, a plurality of predictive variables are identified that correlate to an individual being classified as an influential. *Id.*, at 18:10-19. These predictive variables – which are based on demographic data – are then validated to determine a final set of predictive variables and to create a scoring algorithm. *Id.*, at 19:19-23. This scoring algorithm is then applied to demographic data for a second population to identify individuals in the second population that have a high probability of being influential. *Id.*, at 20:1-16.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The Appellant respectfully requests that the Board of Patent Appeals and Interferences review on appeal the following grounds of rejection, as set forth in the Final Office Action mailed February 25, 2008 (attached in Evidence Appendix at A):

1. Whether claims 1-11 are obvious over the combination of an archived selection of Burson-Marsteller web-sites (hereinafter "E-fluentials Research," attached in Evidence Appendix at B),² in view of a Burson-Marsteller press release entitled "Ninety Percent of Online Influentials Turn to Company Web Sites For Corporate Information, But Only 17 Percent Find Them Credible" (hereinafter "Ninety Percent," attached in Evidence Appendix at C), and in further view of the Burson-Marsteller online publication "The E-fluentials" (hereinafter "The e-fluentials," attached in Evidence Appendix at D).

² As used herein, the citation "*Ev. App.* __ at __: __" refers to the specific Evidence Appendix document attached hereto, along with the page of the citation and the line number, where available.

ARGUMENT

I. The Obviousness Rejection Under 35 U.S.C. § 103 is Improper and Should Be Reversed

The Examiner's obviousness rejection is improper and cannot be sustained because it fails to satisfy the statutory requirements of 35 U.S.C § 103(a) in view of relevant case law, thereby violating established doctrines for determining patentability. In rejecting claims under 35 U.S.C. § 103(a), an examiner bears the initial burden of establishing a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). In this regard, the key to establishing a rejection under 35 U.S.C. § 103 is the clear articulation by an examiner of the reasons why the claimed invention would have been obvious. M.P.E.P. § 2142.

In this case, the Examiner's argument falters primarily in attempting to show that the combined references render obvious the claimed method's steps of identifying predictive demographic variables, and using these demographic variables to identify influentials. In the Final Office Action, the Examiner asserts that the critical reference, "The E-fluentials", implies that demographic data and corresponding demographic variables are used to differentiate so-called e-fluentials from the general population. *Evid. App. A*, at 8. The Examiner further asserts that, by knowing demographic variables are useful and predictive of the most influential people in the group, it would have been obvious to one of ordinary skill in the art to modify the prior art research accordingly and to perpetuate the usefulness of prior research over time. *Id.* at 9. The Examiner then concludes that, in view of Official Notice that the validation of predictive variables was well-known in the art, it would have been obvious to not only incorporate validation, but also to create a database scoring algorithm and apply this algorithm to demographic data for a second population. *Id.* at 9-10.

Despite these assertions, however, the Examiner has failed to establish a *prima facie* case of obviousness. Specifically, a *prima facie* case of obvious does not exist because the cited references do not actually disclose or suggest each and every element of the invention as claimed; in contrast, the combined references actually teach away from the claimed invention. Finally, the rejection is unsustainable because the Examiner's arguments are unsupported by the references and are improperly based on hindsight.

A. The Combined References Do Not Teach All Claim Elements

To establish a *prima facie* case of obviousness through the combination of references, all claim limitations must be taught or suggested by the prior art references. *See, e.g.*, M.P.E.P § 2143.03 (stating that “all words in a claim must be considered in judging the patentability of that claim against the prior art”) (quoting *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). In the present case, a *prima facie* case of obviousness does not exist because the references cited by the Examiner do not teach or suggest all the claim limitations of independent claims 1 or 6. Although the prior art discloses a method of identifying individuals, this method can be seen as teaching, at most, only the first step of the claimed method. However, none of the references – either alone or in combination – teaches or suggests the steps of “identifying a plurality of predictive variables from the set of demographic variables . . . ,” “validating the plurality of predictive variables to determine a final set of predictive variables and to create a database scoring algorithm,” or “applying the database scoring algorithm to the second population to determine a group of influential individuals” *Cl. App. A*, at 1:9-12, 3:22-4:2. The Examiner’s arguments to the contrary illustrate a basic misunderstanding regarding not only the limitations of the claims, but also the teachings of the three cited references.

The three references cited by the Examiner generally describe a single method for identifying influentials. “Ninety Percent” describes a corporate advertising study concerning e-fluentials who completed an online survey containing questions about their online communications behavior. *Evid. App. C*, at 2. This reference also indicates that visitors can participate in further online opinion studies by visiting a website and taking an “e-fluentials quiz.” *Id.* “E-fluentials Research” provides this quiz, which is composed of questions concerning online behavior (such as participating in chat rooms and posting to bulleting boards); however, none of these questions is devoted to demographics. *Evid. App. B*, at 3. The last reference cited by the Examiner, “The E-fluentials,” repeats the same general information as “E-fluentials Research” but with explanations accompanying the various charts therein. *Evid. App. D*, at 2-9. The reference also describes the methodology of the study in detail and states that e-fluentials were identified using an online survey that analyzed “similar patterns of online behavior.” *Id.* at 11. In short, all three references disclose the same method of identifying individuals, one that requires individuals to actively participate in surveys, and that proceeds by analyzing the behavior of these individuals.

Reasonably interpreted, the prior art method can only be reasonably interpreted as overlapping with the first step of the claimed method, which requires “determining if each individual in a first population is influential.” *Cl. App. A*, at 1:6. As noted in the current specification, this step can be performed by obtaining survey data of a group of individuals, who have been classified according to their participation in a list of activities. *Cl. App. B*, at 16:14-20. Accordingly, the prior art method represents a means for accomplishing the first step of the claimed method.

However, the claimed method in its entirety goes well beyond this initial step and provides a means for determining likely influential individuals without the need for repeated behavioral surveys. In the current method, a database scoring algorithm is created following the steps of identifying predictive demographic variables, and validating the plurality of predictive variables to determine a final set of predictive variables. *Cl. App. A*, at 1:9-16. This database scoring algorithm can then be applied repeatedly to demographic data for various populations in order to identify likely influentials. *See Cl. App. B*, at 20:1-9. Moreover, the application of this database scoring algorithm does not require administering further surveys. *Cl. App. B*, at 5:1-3. Thus, whereas the method of the prior art requires that targeted behavioral surveys be administered *each time* a user wishes to determine influentials in a population, the claimed method provides a means for bypassing surveys in subsequent determinations.

Beyond failing to describe a method for identifying influentials that does not require the repeated application of surveys, the prior art also fails to disclose using demographic data to identify influentials. A significant step in the claimed method invention is the identification of predictive demographic variables that substantially correlate to an individual being an influential. *Cl. App. A*, at 1:9-12. In contrast to the claimed method, the prior art method relies solely on interpreting behavioral data obtained through surveys. *Evid. App. B*, at 3. Thus, because the prior art requires the repeated use of surveys to identify influentials, and because the prior art does not utilize demographics in identifying influentials, it is clear that the prior art method does not render the claimed invention obvious.

To overcome the apparent deficiencies of the prior art, the Examiner asserts that the references teach that demographic variables are useful and predictive of the most influential people in a group. *Evid. App. A*, at 8-9. For support, the Examiner quotes from a passage in “The E-fluentials.” *Evid. App. A*, at 8. In its entirety, the passage states as follows:

The overall similarity of the [the general online population and e-fluentials] means that e-fluentials cannot easily be identified by demographics alone. As is true with the traditional Roper Influentials, they can only be found by closely examining their attitudes, perceptions and behaviors.

Evid. App. D, at 10. Rather than supporting the Examiner's assertion, it is clear that this passage as a whole supports the opposite conclusion: that demographic variables were not recognized in the prior art as predictive of the most influential people in the group. Regardless, the Examiner interprets this passage as implying that demographic data and demographic variables are used in the prior art in addition to other information to identify influentials. *Evid. App. A*, at 8.

However, even a cursory examination of the reference reveals the Examiner's interpretation to be incorrect. First, it is clear from its context that this sentence is unrelated to the prior art method for identifying influentials. Specifically, "The E-fluentials" contains a separate "Methodology" section devoted to describing the method utilized for identifying individuals, and this section is entirely devoid of any discussion of demographics. *Evid. App. D*, at 11. This section does, however, explicitly state that e-fluentials are identified based solely on their online behaviors. *Id.* Second, the above passage itself suggests the futility of attempting a correlation between demographics and influential status. By stating that influentials "can *only* be found by closely examining their attitudes, perceptions and behaviors," it is clear that the reference does not contemplate methods of identifying influentials that rely solely on demographic data. *See Evid. App. D*, at 10 (emphasis added).

Therefore, "The E-fluentials" fails to support the Examiner's interpretations and assertions of obviousness. Moreover, the combined references generally fail to teach or suggest a method of identifying influentials without the use of repeated behavioral surveys. Specifically, the references do not teach or suggest identifying predictive demographic variables and identifying influentials based on the analysis of demographic data. Thus, because the combined references do not recite all of the claimed limitations, a *prima facie* case of obviousness does not exist.

B. The References Teach Away from the Claimed Invention

Even if the references are interpreted as teaching the individual elements of the claimed invention, this is insufficient to establish a *prima facie* case of obviousness. The Supreme Court

noted in *KSR* that “a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, a patent is invalid as obvious only if such a combination of the elements would have been obvious to an artisan of ordinary skill. 35 U.S.C. § 103.

In determining obviousness, the primary test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. *In re Keller*, 642 F.2d 414, 425 (C.C.P.A. 1981); *In re Young*, 927 F.2d 588, 591 (Fed. Cir. 1991). In this regard, it is well-settled that a prior art reference must be considered in its entirety, including disclosures that teach away from the claims. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). “A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.” *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994). When viewed in its entirety, the main reference relied upon by the Examiner teaches away from the claimed invention since, in reading the reference, a person of ordinary skill in the art would be deterred from following a path towards the claimed invention.

As noted above, the topic of demographics appears just once in the references cited by the Examiner, and this single discussion suggests that the claimed method of identifying influential individuals based on demographic information is entirely unfeasible. “The E-fluentials” contains a half-page discussion under the heading “Demographics” which begins by stating, “Overall, e-fluentials do not differ much from the general online population.” *Evid. App. D*, at 10. Although the discussion then mentions three minor differences between these two groups, it promptly dismisses them: “The overall similarities of the two populations means that e-fluentials cannot be identified by demographics alone.” *Id.* The discussion then concludes with the following definitive statement: “[e-fluentials] can only be found by closely examining their attitudes, perceptions and behaviors.” *Id.* Therefore, “The E-fluentials” definitively states that such a determination can only be made by examining purely non-demographic data (*i.e.*, attitudes, perceptions and behaviors).

Because “The E-fluentials” disparages the use of demographics in determining influentials, it suggests that the claimed method would not have been obvious to one of ordinary

skill in the art at the time of the invention. *See In re Hedges*, 783 F.2d 1038, 228 USPQ 685 (Fed. Cir. 1986) (holding that proceeding contrary to accepted wisdom in the art is evidence of non-obviousness). Moreover, by specifically discouraging the concept of determining influentials based on demographic data, “The E-fluentials” teaches away from the claimed invention. *See In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994) (stating that “in general, a reference will teach away if it suggests that the line of development flowing from the reference’s disclosure is unlikely to be productive of the result sought by the applicant”). This teaching away in the prior art is significant evidence of its patentability shows that the claimed invention is non-obvious.

C. The Examiner Improperly Relies on Hindsight for Support

Rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the conclusion of obviousness. *See KSR Int’l*, 127 S.Ct. at 1741 (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Moreover, rejections based on 35 U.S.C. § 103(a) must rest on a factual basis with these facts being interpreted without hindsight reconstruction of the invention from the prior art. *See In re Warner*, 379 F.2d 1011, 1017 (C.C.P.A. 1967), cert. denied, 389 U.S. 1057 (1968). In particular, when making an obviousness analysis based on prior art, courts must not fall prey to a “hindsight syndrome” by reasoning backward from the teaching of the patent itself. *See In re Kotzab*, 217 F.3d 1365, 1369 (Fed. Cir. 2000). In other words, an examiner cannot rely on the teachings of the claimed invention to support an obviousness rejection.

In this case, the Examiner’s arguments against the claimed invention are based upon hindsight bias and reconstruction. First, the Examiner’s erroneous interpretation of the teachings of the prior art strongly suggests reliance on hindsight. The Examiner interprets the phrase “[t]he overall similarity of the two populations means that e-fluentials cannot easily be identified by demographics alone” as implying that demographic variables are used to differentiate e-fluentials. However, as discussed above, this interpretation is in clear conflict with the references as a whole, which actually disparage the use of demographic variables for determining influential status. Thus, when viewed separate from the teachings of the Appellant, it is apparent that this phrase does not suggest the use of demographics to identify influentials. Only through the benefit of the Appellant’s insight could the Examiner could make such an interpretation. *See*

Graham v. John Deere Co., 383 U.S. 1, 36 (1966) (discussing the “importance of guarding against hindsight . . . and resist[ing] the temptation to read into the prior art the teachings of the invention in issue” when considering the obviousness of a patent).

Second, the Examiner improperly relies on conclusory statements that are based solely on the teachings of the Appellant. In particular, the Examiner asserts that within the references it is established that demographic variables are “determined to be useful and predictive of the most influential people in a group.” *Evid. App. A*, at 8-9. However, the Examiner does not cite any specific teachings in the references or any other prior art to support this assertion. Moreover, in direct contrast to the Examiner’s assertion, the references reach the exact opposite conclusion and dismiss demographic variables as ineffective predictors of influential status, and discourage their use. *Evid. App. D*, at 10. Thus, it is only in view of the claimed invention that the usefulness of demographic variables in identifying influentials becomes apparent.

As the Examiner’s above arguments are based on hindsight, they cannot properly be relied upon by to support the rejection of the claims for obviousness. Further, because the Examiner does not otherwise provide support for these arguments, a *prima facie* case of obviousness does not exist and the claims are patentable over the prior art.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that the Board reverse the determination of the Examiner and pass the pending claims to allowance.

Dated: July 28, 2007

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CLAIMS APPENDIX

Claims Appendix Index

<u>Exhibit Title</u>	<u>Tab</u>
Claims	A
U.S. Patent App. No. 10/757,166.....	B

EVIDENCE APPENDIX

Evidence Appendix Index

<u>Exhibit Title</u>	<u>Tab</u>
Final Office Action mailed February 25, 2008	A
Burson-Marsteller, "E-fluentials Research" archived web pages ¹	B
Burson-Marsteller, "Ninety Percent" press release	C
Burson-Marsteller, "The E-fluentials" online publication	D
Office Action mailed August 23, 2007	E

¹ The copy of the "E-fluentials Research" reference provided by the Examiner contains charts that are unreadable, as does the copy that is on file with the United States Patent and Trademark Office. To provide the Board with a more legible copy, Appellant has retrieved as many of the archived web pages as possible in order to produce a substantially complete and updated copy of the reference. Those portions of the web page that could not be retrieved from the web archive are noted as "no longer available." This updated copy is labeled as "Updated Copy of 'E-Fluentials Research'" and is provided as an addendum to the Examiner-provided copy of "E-fluentials Research," located in Tab B of the Evidence Appendix.

RELATED PROCEEDINGS APPENDIX

None.

Claims Appendix A

CLAIMS

1. A method for identifying from demographic data those individuals in a population having a greater probability than other individuals in the population of influencing the choices

5 made by others comprising:

- a. determining if each individual in a first population is influential;
- b. providing demographic data for each individual in the first population, wherein the demographic data corresponds to a set of demographic variables;
- c. identifying a plurality of predictive variables from the set of demographic variables
10 such that the demographic data corresponding to the plurality of predictive variables substantially correlates to an individual in the first population being determined to be influential;
- d. validating the plurality of predictive variables to determine a final set of predictive variables and to create a database scoring algorithm;
- e. providing demographic data for a second population, wherein the demographic data
15 for the second population corresponds to the final set of predictive variables; and
- f. applying the database scoring algorithm to the demographic data for the second population to determine a group of influential individuals, wherein the group of influential individuals represent a subgroup of the second population that is predicted
20 to have a higher probability of being influential with respect to the second population in general.

2. The method of claim 1 wherein determining if each individual in the first population is influential comprises:

a. formulating queries to be answered by an individual in the first population such that the answers by an individual in the first population indicate whether the individual has a greater probability than other individuals in the first population of influencing choices made by others;

5

b. providing the queries to individuals in the first population; and

c. analyzing the answers by the individuals in the first population to determine whether each of the individuals in first the population has a greater probability than other individuals in the first population of influencing choices made by others.

10

3. The method of claim 2 wherein the choices made by others are selected from the group consisting of:

consumer product decisions, consumer service decisions, political issue decisions, political candidate decisions, personal finance decisions, investment decisions, real estate decisions, insurance decisions, travel decisions, and leisure decisions.

15

4. The method of claim 2 wherein the queries are based on factors selected from the group consisting of:

20

written or called any politician at the state, local, or national level; attended a political rally, speech, or organized protest of any kind; attended a public meeting on town or school affairs; held or run for political office; served on a committee for some local organization; served as an officer for some club or organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; signed a petition; worked for a political party; made a speech; written an article

for a magazine or newspaper; and been an active member of any group that tries to influence public policy or government.

5. The method of claim 2 wherein the queries are based on factors selected from the

5 group consisting of:

written or called any politician or contacted any government official at local regional or national level; attended a political rally, speech or event; attended a public meeting on town or school affairs; led or served on a committee of some local organization; written a letter to the editor of a newspaper or magazine or called a live
10 radio or TV show to express an opinion; made a speech or gave a talk to a group; been an active member of a group that tries to influence public policy or create change in the community; asked a question in a public meeting; made a complaint to a store, company, or organization; made a sizable donation to a local or national organization; attended business lunches or dinners on a regular basis, and organized a special social event.

15

6. A method for identifying from demographic data those individuals in a population having a greater probability than other individuals in the population of influencing the choices made by others comprising:

- a. determining if each individual in a first population is influential;
- 20 b. providing demographic data for each individual in the first population, wherein the demographic data corresponds to a set of demographic variables;
- c. identifying a plurality of predictive variables from the set of demographic variables such that the demographic data corresponding to the plurality of predictive variables

substantially correlates to an individual in the first population being determined to be influential;

d. reformatting the plurality of predictive variables into numeric representations of gains;

5 e. validating the plurality of predictive variables to determine a final set of predictive variables and to create a database scoring algorithm;

f. providing demographic data for a second population, wherein the demographic data for the second population corresponds to the final set of predictive variables;

10 g. applying the database scoring algorithm to the demographic data for the second population to determine a group of influential individuals, wherein the group of influential individuals represent a subgroup of the second population that is predicted to have a higher probability of being influential with respect to the second population in general.

15 7. The method of claim 6 wherein determining if each individual in the first population is influential comprises:

a. formulating queries to be answered by an individual in the first population such that the answers by an individual in the first population indicate whether the individual has a greater probability than other individuals in the first population of influencing choices made by others;

20 b. providing the queries to individuals in the first population; and

- c. analyzing the answers by the individuals in the first population to determine whether each of the individuals in the first population has a greater probability than other individuals in the first population of influencing choices made by others.

5 8. The method of claim 7 wherein the choices made by others are selected from the group consisting of:

 consumer product decisions, consumer service decisions, political issue decisions, political candidate decisions, personal finance decisions, investment decisions, real estate decisions, insurance decisions, travel decisions, and leisure decisions.

10 9. The method of claim 7 wherein the queries are based on factors selected from the group consisting of:

 written or called any politician at the state, local, or national level; attended a political rally, speech, or organized protest of any kind; attended a public meeting on town or school affairs; held or run for political office; served on a committee for some local organization; served as an officer for some club or organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; signed a petition; worked for a political party; made a speech; written an article for a magazine or newspaper; and been an active member of any group that tries to influence public policy or government.

20 10. The method of claim 7 wherein the queries are based on factors selected from the group consisting of:

written or called any politician or contacted any government official at local regional or national level; attended a political rally, speech or event; attended a public meeting on town or school affairs; led or served on a committee of some local organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; made a speech or gave a talk to a group; been an active member of a group that tries to influence public policy or create change in the community; asked a question in a public meeting; made a complaint to a store, company, or organization; made a sizable donation to a local or national organization; attended business lunches or dinners on a regular basis; and organized a special social event.

11. The method of claims 1 or 6 wherein the set of demographic variables is based on factors selected from the group consisting of:

household size, household income, occupation, presence of young adult in household, retail purchase activity, political affiliation, corrective lenses, golf participant, cd player owner, personal or home computer owner, pc operating system type, religious or inspirational reader, religiously active, active in theater or performing arts, active in general arts or culture, cell phone usage, personal income.

Claims Appendix B

SYSTEM AND METHOD OF IDENTIFYING INDIVIDUALS OF INFLUENCE

BACKGROUND OF THE INVENTION

The invention relates to analytical methodology for identifying individuals in a population possessing certain characteristics indicative of strong leadership and influence
5 over others.

The drawbacks of prior art are best examined both in terms of 1) the changing role and influence of the media over the past many years; and 2) the lack of properly focused marketing. Companies offering products or services have attempted to use multiple channels of communication to reach consumers. These channels, for decades,
10 have expanded with technology. Radios, television and, more recently, the Internet are a small list of examples.

While the expansion of technology is, in many ways, a marketing asset to companies, disadvantages also arise. For example, the increase of available television channels and programs now means that the most highly viewed program today now
15 captures approximately 21% of the population (per the Neilson ratings--the standard statistical vehicle used to measure American viewing), instead of almost 68%, as was the case fifty years ago. Accordingly, advertisers who continue to pay enormous sums of money for air time during commercial intervals for the top-rated programs no longer have what was once tantamount to a monopoly of television viewers.

20 Expanding further on television as an example, studies have shown that a dramatically increasing number of Americans are changing the television channels or muting the television set's volume during commercials, and are thus starting to disregard advertisements. Although television advertising serves as a common example of the marketing problems companies have been facing, this scenario may apply to virtually any

form of media (i.e., radio, newspapers, magazines, etc.), where the reading/listening/viewing options increase for consumers and the monopolies decrease, while the attention consumers pay to advertisements decreases.

While regard for official advertisements decreases in America, the emphasis on conversation increases. According to various studies, Americans are now beginning to converse more about making day-to-day decisions, including the purchase of products and services. Thus, the "official," broadcasted instructions merely to "Buy Brand X" are no longer sufficient without a more conversation-oriented approach to marketing, and advertisements are now focused on explaining exactly why the consumer should buy Brand X. In this respect, a company may invite the consumer to visit its website for more information about Brand X.

Significantly, word-of-mouth recommendations from consumer to consumer have increased, and have become the most effective form of influence in multiple categories of decision-making. Americans of varying ages are becoming active recommenders through sharing their experience and expertise with others. For example, a study shows that six out of ten Americans report recommending a restaurant to someone else in the past year, and about half have recommended a movie.

Companies have engaged in more targeted marketing, with the goal of reaching individuals whom they hope will purchase the product/service themselves, find the product/service useful and, in turn, inform other potential consumers about the product/service. A common manner in which companies engage in such marketing consists of purchasing data in the form of mass lists of individual names and data or information about them, which is statistically analyzed to determine the likelihood that

such individuals would be willing to try the company's product or service. These lists may have been compiled based on extensive surveys, or perhaps based on consumer behavior (i.e., usage of related products). For example, a company producing a new video game might seek to acquire lists of individuals who have purchased video games within the past year. The company, of course, would not end their target marketing at that stage, but would perform statistical analyses using any other available information concerning the video game purchasers to determine other recipients of their advertising. Such an analysis might indicate that male teenagers who owned computers are statistically the most likely people who would buy the video game. The company would target its marketing efforts at individuals meeting those criteria, through whatever channels of communication it chooses to use (perhaps via the Internet, given the target population of computer owners). Thus, targeted research and the word-of-mouth theory combined with statistical analysis promote the dual goals of first, the targets purchasing their product/service, and second, the targets informing other potential consumers about the product/service.

While perhaps targeting the most statistically likely consumers for their particular product or service, prior art has not adequately employed the word-of-mouth theory into practice, because prior art has not targeted the individuals most likely, on a statistical level, to influence others to purchase the products or services. Instead, lists with significant amounts of individuals are purchased, costing the companies significant amounts of money, under the accepted theory that a high amount of targets will yield a high level of product awareness and usage, which in turn, will yield a high level of recommendations to other consumers. Referring again to the studies that Americans are

beginning to place more emphasis on conversation in their daily decision-making, a new theory emerges: if a company wishes to succeed on word-of-mouth advertising, its most feasible avenue of success is to target a much narrower pool of individuals who are not only the most likely individuals to purchase the product, but are the most likely to share their approval of the product with others, and to be listened to by others.

In short, the prior art has consisted of market research tools that employ standard statistical methods to target the most likely consumers of particular products or services, but have not applied statistics to target those individuals who are most influential to other consumers, and are most likely to accomplish the word-of-mouth "advertising" goals of the companies through spreading their influence. The result has often been the expensive purchase of mass data lists and the failed word-of-mouth goals.

SUMMARY OF THE INVENTION

This invention relates to a system and method for identifying target individuals who possess certain characteristics statistically indicative of their ability to influence others in their decision making regarding consumer goods, consumer products, political issues or candidates, financial matters, investments, real estate, insurance, travel and leisure, by non-limiting example. The subject invention encompasses not only the identification of a key group of individuals in a population more likely to affect the decision making of others in the population ("Influentials" as discussed below), but also includes the identification of additional ("non-Influential") informational data common to Influential individuals, as well as the application of this additional informational data to other populations. The advantage of employing this additional informational data to ascertain Influentials is that this data can be publicly available data (such as, for example,

from the U.S. Census Bureau), thus facilitating the identification of Influentials without the necessity of undertaking any surveys to identify Influentials per se instead relying on pre-existing public demographic information.

The process begins with a database of individuals, who have been classified (by a
5 variable created specifically for this invention) as either "Influentials" or
"nonInfluentials" based on indicating recent participation in the following activities:

- A. Written or called any politician at the state, local, or national level
- B. Attended a political rally, speech, or organized protest of any kind
- C. Attended a public meeting on town or school affairs
- 10 D. Held or run for political office
- E. Served on a committee for some local organization
- F. Served as an officer for some club or organization
- G. Written a letter to the editor of a newspaper or magazine or called a live radio or
TV show to express an opinion
- 15 H. Signed a petition
- I. Worked for a political party
- J. Made a speech
- K. Written an article for a magazine or newspaper
- L. Been an active member of any group that tries to influence public policy or
20 government.

These particular questions were developed after extensive testing focused on finding politically active citizens who were more articulate, educated, interested in the surrounding world and likely to make their voices heard. Studies showed that

participation in these activities was the strongest indicator of Influential status.

"Influentials" are individuals who have participated in three or more of the above activities within the last year (with the exception of "Signed a petition," which was an item added to account for the natural tendency for Americans wishing to answer at least one question affirmatively, and is thus discounted because it is not indicative of Influential status), and are thus likely to be able and willing to influence the decisions of other individuals. More particularly Influentials are individuals who are statistically most likely to affect the decision making of others in the above described, but only exemplary areas.

At step one, the data file indicating Influential/nonInfluential status is merged with approximately 900 data elements, which had been purchased from third parties in a manner generally known and available in the art and gleaned from the publicly available U.S. Census data, and each individual is matched with his or her vector of descriptive variables (the individuals surveyed to create the initial database of Influentials and nonInfluentials are, of course, identical to those individuals for whom other descriptive data has been collected by the third parties). This stage essentially involves electronically reading the merged databases, appending them to the target name and address file and converting the database into a format consistent with the analytic requirements for targeted market research. Variables are restaged in a manner that can be used for modeling (e.g., date fields are converted to numeric representations). Each positional data element is associated with a variable name.

After the data are read in and transformed, the computer program randomly divides the analytic file into two components: 1) a test file; and 2) a validation file. The

second, third and fourth step (infra) are conducted on the test file only, and the validation file is used for model validation in step 4.

At the end of step one, the test file of Influentials and non-Influentials consists of 900 purchased, existing variables, plus the one variable indicating one's status as an Influential or nonInfluential, created by this invention, all of which are appended to each individual. Thus, at step two, the system applies a variant of chi square analysis to narrow the number of variables to the strongest (i.e., those variables where preexisting responses to the prior survey questions most closely correlate with Influential status) fifty to seventy. A computer program automatically 1) creates intervals for continuous variables; 2) assigns response indexes to each interval for continuous, categorical and binary variables and 3) identifies variables to be retained based on their having an index greater than an established threshold and representing a percentage of the sample also greater than an established threshold. Values meeting the selection criteria are flagged and are then processed at step three.

At step three, variables are reformatted into numeric representations of gains, relative to the desired effect, so that statistical procedures can be applied without the need for onerous manual data transformations. Variables come in many forms, and may be continuous, categorical or binary. Statistical procedures require that variables are either continuous or binary. For example, a categorical variable with fifteen values must be transformed into 15 binary variables. This process is time consuming. Moreover, many continuous variables contain extreme values, which may diminish a model's predictive power and these extreme values must be smoothed. This system automatically recasts all continuous and binary data into categorical intervals and then assigns each interval a

continuous, numeric value that is compatible with the requirements of the statistical procedures. The categorical data are first regrouped into "similar response" clusters and then assigned the numeric value that represents the interval's relative effect on the response of interest (i.e., whether or not someone is an Influential). These numerical values are then stored as formats that can be associated with raw (pre-transformed) data values that fall within each prescribed interval. In this way, raw data for populations to be scored for Influentials can be easily transformed to formats easily useable by the model.

For each categorical or binary value, the software creates a transformed value representing the distance between the category response percent and the sample-wide response percent. This is a linear function of how this value affects the response in question (i.e., whether or not someone is an influential). All transformed values are stored as formats that are associated with the categorical values derived above. Variables are then renamed in a manner consistent with format naming conventions.

Step four involves the application of statistical procedures to the test dataset to select the final set of predictive variables, test interaction and quadratic terms, fit the model and validate it against the random validation sample created in step two. This comprises the Influentials database scoring algorithm.

Step five involves applying the algorithm to external data for scoring. A company would seek to have its database, or a purchased database, of names and addresses processed. The processing entails appending the reduced subset of Influentials predictive variables from the third party data vendor to the database of names and addresses. The raw data values for each individual are then transformed into their corresponding values

(numeric representation of gains) that were stored as formats in step 3 above. As a result of these transformations, the data have been recast in a format that maximizes predictive power and is consistent with the data format required to invoke the Influentials scoring algorithm.

5 For example, if a list of Influential women over the age of forty in the metropolitan New York area is desired, the following would ensue: 1) Select the ~3,000,000 women over age forty in New York; 2) Append the Influentials bundle of predictive variables; 3) Transform (and reformat) the data into numeric representations of gains; 4) Generate probability scores for the 3,000,000 women in the target population; 10 and 5) Select the highest scores as those who are most likely to be Influentials and market to them.

 If, for example, women within the top two scoring deciles (top 20%) were selected, this group would contain half of all the Influentials that exist in the entire population of 3,000,000 women. On the premise that 10% of the population are 15 Influentials, we could expect that 300,000 of our New York, over-forty women are such. Targeting our top two scoring deciles would isolate half of them, or 150,000. Therefore, targeting 600,000 (20% of the 3,000,000) yields 150,000 Influentials (50% of 300,000). In the absence of the Influentials model, it would be necessary to communicate with half of all the women (1,500,000) to have contacted the same 150,000 Influentials.

20 Employing the statistical methodology and computer functions described above, further useful information regarding the identification of non-U.S. Influentials in other countries can be ascertained based on parameters, which differ from those used to identify U.S. Influentials. The subject invention provides which type and frequency of

activities indicative of Influential status, and the questions used to identify Influentials in the U.S. have been modified through the addition, deletion, altering and consolidation to create a Global Influentials battery of questions.

The present invention thus encompasses:

5 A method for identifying individuals in a population having a greater probability than other individuals in the population of influencing the choices made by individuals in the population comprising:

- 10 a. formulating queries to be answered by an individual in a population such that the answers by an individual in a population indicate whether the individual has a greater probability than other individuals in the population of influencing choices made by individuals in the population;
- 15 b. providing the queries to individuals in the population; and
- 20 c. analyzing the answers by the individuals in the population to determine which of the individuals in the population have a greater probability than other individuals in the population of influencing choices made by individuals in the population.

A method for identifying individuals in a population having a greater probability than other individuals in the population of influencing the choices made by individuals in the population comprising:

- a. formulating queries to be answered by an individual in a population such that the answers by an individual in a population indicate whether the individual has a greater probability than other individuals in the population of influencing choices made by individuals in the population;

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- b. providing the queries to individuals in the population;

- c. analyzing the answers by the individuals in the population to determine which of the individuals in the population have a greater probability than other individuals in the population of influencing choices made by individuals in the population;

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- d. identifying a group comprised of the individuals who provided the answers to the questions that support the greater probability of influencing the choices made by individuals in the population;

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- e. applying additional informational data to the identified group to assess a relationship between the additional informational data and the identified group; and

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- f. applying the assessed relationship to a second population of individuals to determine the individuals in the second population having a greater probability than other individuals in the second population of influencing the choices made by individuals.

A system for identifying individuals in a population having a greater probability than other individuals in the population of influencing the choices made by individuals in the population comprising:

- 5 a. a database populated with answers to queries by individuals in a population such that the answers by an individual in a population indicate whether the individual has a greater probability than other individuals in the population of influencing choices made by individuals in the population; and
- 10 b. a processor for analyzing the answers by the individuals in the population to determine which of the individuals in the population have a greater probability than other individuals in the population of influencing choices made by individuals in the population.

15 A system for identifying individuals in a population having a greater probability than other individuals in the population of influencing the choices made by individuals in the population comprising:

- 20 a. a database populated with answers to queries by individuals in a population such that the answers by an individual in a population indicate whether the individual has a greater probability than other individuals in the population of influencing choices made by individuals in the population;

- b. a processor for analyzing the answers by the individuals in the population to determine which of the individuals in the population have a greater probability than other individuals in the population of influencing choices made by individuals in the population;

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- c. a processor for identifying a group comprised of the individuals who provided the answers to the questions that support the greater probability of influencing the choices made by individuals in the population;

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- d. a database populated with additional informational data;

- e. a processor for applying the additional informational data to the identified group to assess a relationship between the additional informational data and the identified group;

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- f. a database populated with the additional informational data of a second population of individuals; and

- g. a processor for applying the assessed relationship to the second population of individuals to determine the individuals in the second population having a greater probability than other individuals in the second population of influencing the choices made by individuals.

20

BRIEF DESCRIPTION OF THE DRAWINGS

These and other subjects, features and advantages of the present invention will become more apparent in light of the following detailed description of a best mode embodiment thereof, as illustrated in the accompanying Drawings.

5 **FIG. 1** is a data compilation in the form of raw data in accordance with one exemplary embodiment of this invention for carrying out one exemplary method of this invention;

FIG. 2 is a data compilation in the form of one raw data set appended to another raw data set in accordance with one exemplary embodiment of this invention for carrying
10 out one exemplary method of this invention;

FIG. 3 is a data compilation in the form of restaged data in SAS format in accordance with one exemplary embodiment of this invention for carrying out one exemplary method of this invention;

FIGS. 4 and 5 are data compilations in the form of SAS formatted data,
15 displaying the results of statistical analyses performed on one exemplary variable in accordance with one exemplary embodiment of this invention for carrying out one exemplary method of this invention;

FIG. 6 is a data compilation in the form of SAS formatted data, displaying the results of further statistical analyses with respect to a selected variable meeting certain
20 statistical requirements from the analyses previously performed (as shown in FIGS. 4 and 5), and showing categorical intervals created with respect to the response data as well as percent gain values derived from the analyses in accordance with one exemplary embodiment of this invention for carrying out one exemplary method of this invention;

FIG. 7 is a data compilation exemplifying the association of variable formats with the categorical intervals created with respect to response data in accordance with one exemplary embodiment of this invention for carrying out one exemplary method of this invention;

5 **FIG. 8** is a data compilation in the form of an input statement used to associate formats and percent gains values (as derived from the analyses performed in **FIG. 6**) in accordance with one exemplary embodiment of this invention for carrying out one exemplary method of this invention;

10 **FIG. 9** is a data compilation illustrating the end result of the analysis to determine the target population and from which to test model against a validation set of data in accordance with one exemplary embodiment of this invention for carrying out one exemplary method of this invention;

15 **FIGS. 10 and 11** are charts illustrating the manner in which the model described in the above figures and applied in the United States may be modified and expanded globally, using the same statistical methodology described herein in accordance with one exemplary embodiment of this invention for carrying out one exemplary method of this invention; and

20 **FIGS. 11 and 12** are data compilations in graph format, illustrating the percentage of individuals globally who possess one or more of the traits used in the model described herein in accordance with one exemplary embodiment of this invention for carrying out one exemplary method of this invention.

FIG. 13 is a bar graphical representation showing activity participation differences between the general population and Global Influentials;

FIG. 14 is a tabulation of additional informational data having a correlation to the identification of Influential individuals;

FIG. 15 is a listing of a portion of an exemplary computer algorithm correlating the additional informational data;

5 **FIG. 16** is a graph illustrating the increase in percent of Influential individuals identified in a population based on the additional informational data; and

FIG. 17 is a "pie" chart showing the practical effect of employing the additional informational data relating to the percent of individuals in the general population one would need to survey to identify a corresponding percent of Influentials employing the
10 subject invention.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

An overview of the data processing and statistical analysis steps of the present invention is now provided. First, the system and method of the present invention
15 preferably obtains survey data of a pre-selected group of individuals in a manner known in the art from a source known in the art, possibly having certain demographic traits (including, but not limited to, age, gender, income level, and/or geographic location), in order to populate a database with data of individuals who, in accordance with the subject invention, have also been classified as either "Influentials" or "nonInfluentials" based on
20 indicating recent participation in the following activities:

- A. Written or called any politician at the state, local, or national level
- B. Attended a political rally, speech, or organized protest of any kind
- C. Attended a public meeting on town or school affairs
- D. Held or run for political office

- E. Served on a committee for some local organization
- F. Served as an officer for some club or organization
- G. Written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion
- 5 H. Signed a petition
- I. Worked for a political party
- J. Made a speech
- K. Written an article for a magazine or newspaper
- L. Been an active member of any group that tries to influence public policy or
- 10 government.

"Influentials" are those individuals who have participated in three or more of the above activities within the last year (with the exception of "Signed a petition"), and are thus likely to be able and willing to influence the decisions of other individuals.

Still at step one, more specifically, a data file indicating

- 15 Influential/nonInfluential status is merged with approximately 900 data elements, which had been purchased from third parties in a manner generally known and available in the art and gleaned from the publicly available U.S. Census data, and each individual is matched with his or her vector of descriptive variables (the individuals surveyed to create the initial database of Influentials and nonInfluentials are, of course, identical to those
- 20 individuals for whom other descriptive data has been collected by the third parties). This stage essentially involves electronically reading the merged databases, appending them to the target name and address file and converting the database into a format consistent with the analytic requirements for targeted market research. Variables are restaged in a

manner that can be used for modeling (e.g., date fields are converted to numeric representations). Each positional data element is associated with a variable name.

After the data are read in and transformed, the computer program randomly divides the analytic file into two components: 1) a test file; and 2) a validation file. The
5 second, third and fourth step (infra) are conducted on the test file only, and the validation file is used for model validation in step 4.

At the end of step one, the test file of Influentials and non-Influentials consists of 900 purchased, existing variables, plus the one variable indicating one's status as an Influential or nonInfluential, created by this invention, all of which are appended to each
10 individual. Thus, at step two, the system applies a variant of chi square analysis to narrow the number of variables to the strongest (i.e., those variables where preexisting responses to the prior survey questions most closely correlate with Influential status) fifty to seventy. A computer program automatically 1) creates intervals for continuous variables; 2) assigns response indexes to each interval for continuous, categorical and
15 binary variables and 3) identifies variables to be retained based on their having an index greater than an established threshold and representing a percentage of the sample also greater than an established threshold. Values meeting the selection criteria are flagged and are then processed at step three.

At step three, variables are reformatted into numeric representations of gains,
20 relative to the desired effect, so that statistical procedures can be applied without the need for onerous manual data transformations. Variables come in many forms, and may be continuous, categorical or binary. Statistical procedures require that variables are either continuous or binary. For example, a categorical variable with fifteen values must be

transformed into 15 binary variables. This process is time consuming. Moreover, many continuous variables contain extreme values, which may diminish a model's predictive power and these extreme values must be smoothed. This system automatically recasts all continuous and binary data into categorical intervals and then assigns each interval a continuous, numeric value that is compatible with the requirements of the statistical procedures. The categorical data are first regrouped into "similar response" clusters and then assigned the numeric value that represents the interval's relative effect on the response of interest (i.e., whether or not someone is an Influential). These numerical values are then stored as formats that can be associated with raw (pre-transformed) data values that fall within each prescribed interval. In this way, raw data for populations to be scored for Influentials can be easily transformed to formats easily useable by the model.

For each categorical or binary value, the software creates a transformed value representing the distance between the category response percent and the sample-wide response percent. This is a linear function of how this value affects the response in question (i.e., whether or not someone is an influential). All transformed values are stored as formats that are associated with the categorical values derived above. Variables are then renamed in a manner consistent with format naming conventions.

Step four involves the application statistical procedures to the test dataset to select the final set of predictive variables (as shown in **FIG. 14**), test interaction and quadratic terms, fit the model (resulting in the predictive algorithm of **FIG. 15**) and validate it against the random validation sample created in step two. This comprises the Influentials database scoring algorithm.

Step five involves applying the algorithm to external data for scoring. A company would seek to have its database, or a purchased database, of names and addresses processed. The processing entails appending the reduced subset of Influentials predictive variables from the third party data vendor to the database of names and addresses. The raw data values for each individual are then transformed into their corresponding values (numeric representation of gains) that were stored as formats in step 3 above. As a result of these transformations, the data have been recast in a format that maximizes predictive power and is consistent with the data format required to invoke the Influentials scoring algorithm.

For example, if a list of Influential women over the age of forty in the metropolitan New York area is desired, the following would ensue: 1) Select the ~3,000,000 women over age forty in New York; 2) Append the Influentials bundle of predictive variables; 3) Transform (and reformat) the data into numeric representations of gains; 4) Generate probability scores for the 3,000,000 women in the target population; and 5) Select the highest scores as those who are most likely to be Influentials and market to them.

If, for example, women within the top two scoring deciles (top 20%) were selected, this group would contain half of all the Influentials that exist in the entire population of 3,000,000 women. On the premise that 10% of the population are Influentials, we could expect that 300,000 of our New York, over-forty women are such. Targeting our top two scoring deciles would isolate half of them, or 150,000. Therefore, targeting 600,000 (20% of the 3,000,000) yields 150,000 Influentials (50% of 300,000).

In the absence of the Influentials model, it would be necessary to communicate with half of all the women (1,500,000) to have contacted the same 150,000 Influentials.

Thus, this invention relates to a system and method for identifying target individuals who possess certain characteristics statistically indicative of their ability to influence others in their decision making regarding consumer goods, consumer products, political issues or candidates, financial matters, investments, real estate, insurance, travel and leisure, by non-limiting example. The subject invention encompasses not only the identification of a key group of individuals in a population more likely to affect the decision making of others in the population ("Influentials" as discussed below), but also includes the identification of additional ("non-Influential") informational data common to Influential individuals, as well as the application of this additional informational data to other populations. The advantage of employing this additional informational data to ascertain Influentials is that this data can be publicly available data (such as, for example, from the U.S. Census Bureau), thus facilitating the identification of Influentials without the necessity of undertaking any surveys to identify Influentials per se instead relying on pre-existing public demographic information.

Next, each step of the above summarized steps of an exemplary, but preferred, embodiment of the subject invention is described in detail. In the first step of the subject invention, **FIG. 1** illustrates a sample of raw ASCII data, which is essentially unprocessed, unformatted data from a collection methodology, (in this case, surveys of approximately 7,000 people) that can be purchased in a manner and from sources known in the art such as, as stated above, private entities and/or the U.S. Census Bureau. **FIG. 1** contains geographical data for multiple individuals who have also been classified,

specifically by this invention, as Influentials or nonInfluentials, such as name **101-103**, address **105-113**. This raw data is merged with approximately 900 demographic and psychographic variables, also in the form of raw data elements, which are purchased from third parties, and which pertain to the same individuals, on a conventional Intel chip-based PC personal computer running Windows XP or NT operating systems, for example. The data is then split randomly into two, yielding a test and validation file, both of which contain a mix of Influentials and nonInfluentials.

FIG. 2 exemplifies a sample of purchased data records appended to a name and address file, as such that shown in **FIG. 1**.

FIG. 3 shows the data after it is processed at step one and reread using BASE by Statistical Analysis Software ("SAS") manufactured by SAS Institute, Inc. of Cary, N.C. 27513-2414. The processed data is read into columnar format with values associated with observations **301** and variable names **303**.

FIG. 4 exemplifies the chi analysis performed by BASE SAS and SAS MACROS at the second step of the process on one of the 900 acquired variables and the Influentials/nonInfluentials variable. Chi analyses are performed on all 900 variables to narrow the number to approximately fifty to seventy of the most reliable variables. Elements **401-405** are categorical values that are processed as follows. For example, an overall 7.35% of the individuals in the database possess a relevant characteristic **407** (which, throughout this invention, is Influential status), and 92.65% do not possess the characteristic (i.e., 92.65% are not Influentials). The response rate for the household income category interval of 7 is 15.87% **409**; that is, 30 **411** individuals of 189 **413** whose household income falls within interval category 7 are Influentials. An index value

415 is derived to show a relative measure of how intensive the response of interest is in a particular categorical value. The index value for a particular variable is derived by taking the quotient of the percent response (in this example, 15.87% 409) and the cumulative percent response (in this example, 7.35% 407). Category interval 7 yields an index of 2.16 417.

The computer program lists an asterisk 425 to highlight variables meeting an established threshold index value of 1.5, and where more than 2% of the population (measured by percent of total 427) had responded in that particular category. While the former threshold is directed at seeking variables with an intensive response of interest, the latter ensures reliability by way of a sufficient amount of observations present. In this case, an asterisk 425 appears in category interval 7 because the index 417 ($2.16 > 1.5$) and percent of total 429 ($5.4\% > 2\%$) meet the established threshold. By way of another example, the reformatted data in FIG. 4 indicates a 4.35% response rate 419 for the income category interval 3 405, or 11 421 out of a total of 253 423. An asterisk does not appear in category interval 3 because, although the percent total (7.2%) 431 exceeded 2%, the index value (0.59) 433 did not.

FIG. 5 shows the same analysis performed in FIG. 4 (using a different data element, for illustrative purposes), with an asterisk 501 appearing in the category interval 02 503, because the index value, which is measured by the percent response for category interval 02 (23.4% 505) divided by the cumulative percent response (7.35% 507), is greater than 1.5. Thus, during step one, all 900 variables are examined, and those with at least one asterisk on one of the values are returned for further processing. Notably, the

second step, exemplified in FIGS. 4-5, is optional to the overall process, but avoids the extremely time consuming process of examining each individual variable.

FIG. 6 illustrates the third step of reformatting the variables (again using BASE SAS and SAS MACROS) that have met the criteria described in the FIGS. 4-5 (ie., those containing at least one asterisk). Variable values take the form of binaries, which are essentially yes/no answers, or continuous, which may be a number, such as age or square footage, or categorical which may be an answer such as the state where the responding individual resides. Variables are recast to be categorical. For example, a continuous variable such as home square footage is automatically divided into different intervals. The value is then recasted in intervals such as 0 to 100, or 101 to 500, stopping at the highest interval. The variable is then recasted as a categorical variable. Binaries, as merely yes/no categorical variables, are already categorical. The categories developed are stored into formats, which are values that can be associated with data values. Those formats are later coded, as described later in FIG. 7. This step essentially stores the relationship between that number and the interval that was automatically created, where the number will be placed. When a raw data value is later being read, the program will recognize that the format indicates the number fits with a specific category. For example, the number 4 may represent the square footage value between 5,000 and 10,000. A square footage value of 6,000 will then be assigned the number 4. The same format values may be used among multiple variables, because they are associated with unique variable names.

A percent gain 601 is developed for each interval. In FIG. 6, 7.8% of all responders 603 are Influentials. For example, the "9" category interval 605 contained a

22.95% response. The percent gain is the quotient of 1) the difference between the percent response (22.95% 605) and the cumulative percent response (7.8% 603) and 2) the cumulative percent response (7.8% 603). The result is similar to the index. In the "9" category interval, the percent gain is 194.2% 607 ($22.95 - 7.8 = 15.15 / 7.8 = 194.2\%$). Also

5 in FIG. 6, category interval 6 indicates a percent response of 12.83% 609. The percent gain for this category is 64.5% 611, which is arrived at by subtracting 7.8% 603 from 12.83% 609 ($= 5.03\%$), and dividing the difference by 7.8% 603, which yields a percent gain of 64.5% 611. The percent gain is the value the interval is actually going to receive, and represents how strong that particular value is or what the intensity of that value is.

10 The gain is now associated with the interval, which in turn will be associated and stored with a format.

FIG. 7 illustrates copies of how the formats actually appear, and is an example for the household income data discussed in FIG. 4. The example variable (income_code_estimated_hr_prm) has potential values of `1` through `9` (see FIG. 5).

15 These values are recast into intervals that are based on the relative similarity of their index values (see FIG. 5 for examples of index values): These are the intervals that generally have been created, though in some cases may be the raw values where the raw values are actually in intervals. For example, the interval start=4 to end=4 represents raw data value 4. Interval start=`other` and end=`other` represents raw data values 1, 2, 3,

20 and 5. Intervals are stored in this format and associated with internal values 1-7. The format identification number created 701 appears, which in this example is V310CXI 701. In the shaded box below (on the bottom), V310CX, 705 creates formats that associate gains values with the internal values 1-7 that are in turn associated with raw

data value (intervals) in format **701**. Internal values are created to enable automation of the system with sequential, automatically generated values readily associated with both raw data values and corresponding transformed gains values. This association enables raw data values to be read in, association with an interval, translated to an internal value, and used to retrieve the gain value that should be associated with said raw value. In this way, newly acquired data can be automatically transformed into gains values in preparation for application to the scoring algorithm that ascribes Influential or non-Influential status. In the shaded box, in the middle, **V310CIX 703** represents another format within the household income data. This format associates internal values 1-7 with raw data value (intervals) so that reports can be created with labels that are interpretable by the viewer (see **FIG. 6** where internal values 1-7 would be meaningless of and in themselves). Gains values from format **V310CX 705** are associated back to raw data values with format **V310CX 703** and printed as in **FIG. 6**. Both of these identifications stem off of the variable identifier, which is **V310C**, for all formats appearing within that variable.

FIG. 8 exemplifies an input statement that associates the different variables in the program with their respective formats. When data is later read again, a trail now exists. At this stage in the process, a test data set of variables exists, along with a format library. The test data set of variables are transposed no longer, but are raw values. These variables are of significant interest in predicting and discriminating between Influentials and non-Influentials.

FIG. 9 illustrates the gains chart from the Influentials, and **FIG. 16** is a graphical representation thereof. The model has been applied to the validation data set and the

validation data set is actually stored in a model that has been constructed. All individuals in that validation data set are ranked in descending order according to the probability of being influential. In this example, the highest probability is the 5% of the people 901 listed in the first category, followed by the next 5% with the next highest probability 903 and so forth. The cumulative percent of all responders in the data set of the top 20% of 5 Influentials is 48.71% 905 or more. The percent gain is the percent response for category 01 (36.11% 907), minus the cumulative percent response (8.06 909), divided by 8.06 yields a 348% gain 911. The computation used is identical to that applied in FIGS. 4-5. Therefore, if the top 10% of this population are targeted the projected result is 32.33% 10 911 of Influentials, and if the top 20% of this population are targeted approximately 50% of Influentials are identified in FIG. 17 (48.71% under FIG. 9).

Before actual scoring and ranking can occur, a predictive model is derived, comprised of main effects as shown in FIG. 14 to which statistical procedures are applied to derive a predictive algorithm as shown in FIG. 15. This involves a process consisting 15 of selecting final predictors, fitting the model, and delegating. As all formats have been written, variables are tested to see how well the model performs.

A significant consideration in the process of FIG. 15 involves the interaction of different variables, such as a person's income and the square footage of his/her house, each of which has a main effect individually (see, for example, the main effect of 20 "income" (V310_C) at 1501 of FIG. 15, which is 0.000465). For different levels of income, the relationship of square footage to whether or not a person is an influential may vary for different levels of income. If an individual is in the low-income bracket poor

and owns a large house, the relationship between those two variables may differ from those of an ordinary influential in the high income bracket who owns a large house. In short, different factors interact differently and some of the interactions are more relevant than others at certain levels. Thus, square footage may be a stronger predictor if one also
5 considers the effect of income on the relationship square footage has to whether or not a person is an influential, as opposed to examining solely square footage. For example, referring to **FIG. 15**, presuming for discussion purposes only that "square footage" is V389_C and "income" is V310_C, as shown at **1503** a coefficient (0.000002588) accounts for the variation in score that is attributable to the two paired effects ("income"
10 and "square footage," in this example).

Additionally, quadratic terms recognize that there may be effects that occur but, that are not a straight line through data and they have some sort of response characteristic. Thus, the effect of income by itself, as it increases, may signify more than merely double the size, such as, for example **1505** of **FIG. 15** which shows that the main
15 effect **1501** of **FIG. 15**, ("income") is not linear (i.e., it increases at a greater rate as it becomes larger). It is to be noted that some quadratic effects are negative (they increase at a lesser rate as the value becomes larger).

A "P value", and "F test" (statistical analytical functions well known in the art) are used to measure how closely movement in a variable in the right side of the equation is
20 affecting movement of the left side of the equation. Significant measures warrant retaining the variable.

The algorithmic terms (e.g. V310_C, etc. in **FIG. 8**) have been associated with both the source variable names (e.g. INCOME_CODE_ESTIMATED_HH_PRM, etc. in

FIG. 8) and format names (e.g. \$V310C, etc. in FIG. 8). The input statement illustrated in FIG. 8 works in conjunction with the formats illustrated in FIG. 7 to associate raw data variables and values with the proper, associated algorithmic term and gain value. These properly classified and transformed values are then applied to the algorithm and yield a probability (or score) of being an Influential that is then ranked against scores ascribed to all others in the target population.

Having created a functional model that is embodied in a working computer software program, companies may now purchase smaller quantities of data from parties. For example, a company may wish to receive the names of influential women over the age of forty and living in New York City. The administrators of the invention may obtain 3,000,000 names of individuals meeting these criteria from a third party. The 3,000,000 names are processed through the model, to obtain a more narrow pool of Influentials. A selection of the top 20% of names appearing in the model as likely Influentials (as determined in the processed described in FIG. 9) will yield 600,000 names. Under an agreement with a prominent third party data provider, the inventor pays for only 600,000 names. Presuming, as the underlying theory does, that Influentials are 10% of the population, and because 600,000 is 20% of the 3,000,000 names processed, the system will identify 150,000, or 50% of the total Influentials existing in the population.

Employing the statistical methodology and computer functions as presented in FIGS. 1-9, further useful information regarding the identification of non-U.S. Influentials in other countries can be ascertained, which differ from those used to identify U.S. Influentials. In an attempt to capture the concept of influence on a global level, the U.S. Influentials model was used as a point of departure because of the vast amount of data

already existing for U.S. Influentials. However, it was recognized that in many countries, influence is expressed through different spheres depending on the culture and governments of each, and the results of studies have shown that the required number of activities participated in to qualify as a Global Influential differed by country. Thus,

5 **FIG. 10** shows an approach attempted in the year 2003, which applies the set of questions determining Influential status in the U.S., and increases or decreases (depending on the country) the number of items required to be classified as an Influential. For example, in Sweden **1001**, consumers were more likely to participate in many of the activities, and qualifying as an Influential in Sweden was easier than in the U.S.; thus, the
10 approach was adjusted to require participation in at least four (instead of three, as in the U.S.) activities to be classified as an Influential. By contrast, in Hong Kong **1003**, fewer consumers participated in the enumerated activities, and the approach was adjusted to simplify qualification as an Influential in Hong Kong (i.e., by requiring only two or more items).

15 As a further illustration of how Influentials in other countries may be ascertained using the U.S. Influentials model as a point of departure, **FIG. 11** shows how the U.S. Influentials question battery has been modified to create a Global Influentials question battery, through the addition, deletion, modification and consolidation of certain questions. Specifically, the 2004 Global Influentials Question Battery contains the
20 following items (all within the last year):

- a. Written or called any politician or contacted any government official at local regional or national level **1101** (this is essentially identical to the U.S.

Influential item "Written or called any politician at the state, local or national level." 1103);

- b. Attended a political rally, speech or event 1105 (functionally equivalent to "Attended a political rally, speech, or organized protest of any kind" 1107);
- 5 c. Attended a public meeting on town or school affairs 1109 (identical to U.S. Influentials model 1111);
- d. Led or served on a committee of some local organization (Educational, social, religious, cultural or political) 1113 (as opposed to served on a committee for some local organization 1115);
- 10 e. Written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion 1117 (identical to U.S. Influentials model 1119);
- f. Made a speech or gave a talk to a group 1121 (as opposed to only making a speech 1123);
- 15 g. Been an active member of a group that tries to influence public policy or create change in the community 1125 (as opposed to "Been an active member of any group that tries to influence public policy or government" 1127);
- h. Asked a question in a public meeting 1129 (added question);
- i. Made a complaint to a store, company, or organization 1131 (added question);
- 20 j. Made a sizable donation to a local or national organization 1133 (e.g., Educational, social, religious, cultural or political) (added question);
- k. Attended business lunches/dinners on a regular basis) 1135 (added question);
- and

- l. Organized a special social event such as a reunion, etc. 1137

The following questions from the U.S. Influentials battery were either deleted or consolidated into other questions to comprise the Global Influentials battery:

- a. Held or run for political office;
- 5 b. Served as an officer for some club or organization;
- c. Signed a petition;
- d. Worked for a political party; and
- e. Written an article for a magazine or newspaper.

FIG. 12 illustrates a comparison of participation in three or more Influentials activities among numerous countries. The percentage of individuals participating in three or more Influentials activities (using the Global Influentials battery) ranges from 9 1201 to 22% 1203, with most countries shown in the 9-13% range. Thus, the results of the Global Influentials battery appears relatively consistent among numerous, diverse countries.

15 **FIG. 13** shows another comparison of the differences in participation of the enumerated activities between the total population 1301, and Global Influentials 1303. In all cases, individuals identified as Global Influentials (by answering affirmatively for the requisite number of items in each respective country), consistently participated in all Influentials activities. For example, where only 24% of the total population attended a
20 public meeting 1305, 75% of all Global Influentials have done so 1307.

Although the invention has been shown and described with respect to a best mode embodiment thereof, it should be understood by those skilled in the art that various changes, omissions, and additions may be made to the form and detail of the disclosed

embodiment without departing from the spirit and scope of the invention, as recited in the following claims.

Evidence Appendix A



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,166	01/13/2004	Edward B. Keller	07055859	3545

26565 7590 02/25/2008
MAYER BROWN LLP
P.O. BOX 2828
CHICAGO, IL 60690

EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
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3692

MAIL DATE	DELIVERY MODE
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02/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/757,166	KELLER ET AL.	
	Examiner	Art Unit	
	Susanna M. Diaz	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2007.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-11 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This final Office action is responsive to Applicant's amendment filed November 20, 2007.

Claims 1-3, 6-8, and 11 have been amended.

Claims 1-11 are presented for examination.

Response to Amendment

2. Applicant's amendments to the specification dated June 21, 2007 have been entered.

The previously pending rejections under 35 U.S.C. §§ 101 and 112, 2nd paragraph are withdrawn in response to Applicant's current claim amendments.

Response to Arguments

3. Applicant's arguments filed November 20, 2007 have been fully considered but they are not persuasive.

Applicant argues that e-fluentials does not take demographic data into account. Applicant cites page 10 of "The e-fluentials" to assert that e-fluential teaches away from using demographic data. The Examiner respectfully disagrees. "The e-fluentials" discusses how demographics can be used as part of the analysis differentiating e-fluentials from the general online population, e.g., based on age, income, and level of education ("The e-fluentials": page 10). "The e-fluentials" states, "The overall similarity of the two populations means that e-fluentials cannot easily be identified by demographics

alone" ("The e-fluentials": page 10), which implies that demographic data and corresponding demographic variables are used, *in addition to* other information, to differentiate e-fluentials from a general population.

Also, Examiner notes that, as per MPEP § 2144.03(C), the statements of Official Notice made in the art rejection have been established as admitted prior art since Applicant has not traversed the Examiner's assertions of Official Notice. More specifically, the following statements of Official Notice are now formally established on record as admitted prior art:

Official Notice is taken that it was old and well-known in the art of predictive modeling at the time of Applicant's invention to validate predictive variables (used to create an algorithm) on a second group of test subjects; validation of the predictive variables helps to ensure that the model is taking into account the most effective variables at making accurate predictions.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burson-Marsteller's e-fluentialsSM research, as disclosed in (1) Burson-Marsteller's archived e-fluentials web site, retrieved from [URL:

<http://web.archive.org/.../efluentials.com...>], herein referred to as "Burson-Marsteller's e-fluentialsSM research," (2) the article "Ninety Percent of Online Influentials Turn to Company Web Sites For Corporate Information, But Only 17 Percent Find Them Credible," herein referred to as "Ninety Percent," and (3) Burson-Marsteller's "The e-fluentials." The web pages have been archived by web.archive.org on June 1, 2002, February 3, 2003, and February 15, 2003. "Ninety Percent" makes specific reference to the efluentials web site <http://www.efluentials.com> and to Burson-Marsteller's e-fluentialsSM research and, therefore, is deemed to provide further information regarding features inherent to Burson-Marsteller's e-fluentialsSM research.

E-fluentials discloses a method for identifying from demographic data those individuals in a population having a greater probability than other individuals in the population of influencing the choices made by others comprising:

[Claims 1, 6] a. determining if each individual in a first population is influential (Burson-Marsteller's e-fluentialsSM research: Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential. "Representing 10% of the online population, approximately 11 million users, this group reaches more people on more topics than the average online users." Pages 5-23 show the results of an E-fluential analysis);

[Claims 2, 7] wherein determining if each individual in the first population is influential comprises:

a. formulating queries to be answered by an individual in the first population such that the answers by an individual in the population indicate whether the individual

has a greater probability than other individuals in the first population of influencing choices made by others (Burson-Marsteller's e-fluentialsSM research: Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential. "Representing 10% of the online population, approximately 11 million users, this group reaches more people on more topics than the average online users");

b. providing the queries to individuals in the first population (Burson-Marsteller's e-fluentialsSM research: Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential; Page 3 -- E-fluential quiz questions are shown); and

c. analyzing the answers by the individuals in the first population to determine whether each of the individuals in the first population has a greater probability than other individuals in the first population of influencing choices made by others (Burson-Marsteller's e-fluentialsSM research: Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential. Pages 5-23 show the results of an E-fluential analysis);

[Claims 3, 8] wherein the choices made by others are selected from the group consisting of:

consumer product decisions, consumer service decisions, political issue decisions, political candidate decisions, personal finance decisions, investment decisions, real estate decisions, insurance decisions, travel decisions, and leisure decisions (Burson-Marsteller's e-fluentialsSM research: Page 3 -- An individual is

inquired about sending e-mails to politicians, e.g., a decision relating to politics, and making friends online, e.g., a leisure decision);

[Claims 4, 9] wherein the queries are based on factors selected from the group consisting of:

written or called any politician at the state, local, or national level; attended a political rally, speech, or organized protest of any kind; attended a public meeting on town or school affairs; held or run for political office; served on a committee for some local organization; served as an officer for some club or organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; signed a petition; worked for a political party; made a speech; written an article for a magazine or newspaper; and been an active member of any group that tries to influence public policy or government (Burson-Marsteller's e-fluentialsSM research: Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at the state, local, or national level), and sending e-mails to well-known news and media companies such as Time, Newsweek, or CNBS, e.g., writing a letter to a newspaper or magazine. The role of the recited editor is not defined in such a way that it affects the structure or functionality of the claimed invention; therefore, any individual who receives e-mail at a well-known news and media company from the potential E-fluential individual can be interpreted as the recited "editor");

[Claims 5, 10] wherein the queries are based on factors selected from the group consisting of:

written or called any politician or contacted any government official at local regional or national level; attended a political rally, speech or event; attended a public meeting on town or school affairs; led or served on a committee on some local organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; made a speech or gave a talk to a group; been an active member of a group that tries to influence public policy or create change in the community; asked a question in a public meeting; made a complaint to a store, company, or organization; made a sizable donation to a local or national organization; attended business lunches or dinners on a regular basis, and organized a special social event (Burson-Marsteller's e-fluentialsSM research: Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at a local, regional, or national level));

[Claim 11] wherein the additional informational data is based on factors selected from the group consisting of:

household size, household income, occupation, presence of young adult in household, retail purchase activity, political affiliation, corrective lenses, golf participant, cd player owner, personal or home computer owner, pc operating system type, religious or inspirational reader, religiously active, active in theater or performing arts, active in general arts or culture, active in current affairs or politics (Burson-Marsteller's e-fluentialsSM research: Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., active in politics).

Regarding claims 1 and 6, the Burson-Marsteller's e-fluentialsSM research selects e-fluentials using a predictive algorithm based on their earlier research ("Ninety Percent": ¶ 7). This research has been used to identify which characteristics (i.e., variables) are most closely associated with e-fluentials ("Burson-Marsteller's e-fluentialsSM research": Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential." (Pages 5-23 show the results of an E-fluential analysis). "The e-fluentials" discusses how demographics can be used as part of the analysis differentiating e-fluentials from the general online population, e.g., based on age, income, and level of education ("The e-fluentials": page 10). "The e-fluentials" states, "The overall similarity of the two populations means that e-fluentials cannot easily be identified by demographics alone" ("The e-fluentials": page 10), which implies that demographic data and corresponding demographic variables are used, in addition to other information, to differentiate e-fluentials from a general population.

While the e-fluential references do not expressly disclose how the predictive algorithm is performed, it remains evident from these references that a smaller group of the most influential people are identified based on a collection of characteristics (or variables) normally associated with the most influential people in a group. For example, the e-fluentials web site explains that e-fluentials frequently perform the activities that are the subject of the quiz used to identify e-fluentials, such as sending e-mails to politicians and well-known news and media companies (Burson-Marsteller's e-fluentialsSM research: pages 3, 11, and 23) and similar assessments are made using demographic information ("The e-fluentials": page 10). Since these variables are

determined to be useful and predictive of the most influential people in a group, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the e-fluentials research to provide demographic data for each individual in the first population, wherein the demographic data corresponding to a set of demographic variables and identify a plurality of predictive variables from the set of demographic variables such that the demographic data corresponding to the plurality of predictive variables substantially correlates to an individual in the first population being determined to be influential in order to practically apply Burson-Marsteller's past research to make future predictions regarding which people are the most influential within a group, thereby perpetuating the usefulness of such research over time. Additionally, Official Notice is taken that it was old and well-known in the art of predictive modeling at the time of Applicant's invention to validate predictive variables (used to create an algorithm) on a second group of test subjects [now admitted prior art]; validation of the predictive variables helps to ensure that the model is taking into account the most effective variables at making accurate predictions [now admitted prior art]. Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify e-fluentials' predictive model to incorporate the step of validating the plurality of predictive variables to determine a final set of predictive variables and to create a database scoring algorithm (e.g., by providing demographic data for a second population, wherein the demographic data for the second population corresponds to the final set of predictive variables and applying the database scoring algorithm to the demographic

data for the second population to determine a group of influential individuals, wherein each test data vector corresponds to an individual in the second population, wherein the group of influential individuals represent a subgroup of the second population that is predicted to have a higher probability of being influential with respect to the second population in general) in order to help ensure that the model is taking into account the most effective variables at making accurate predictions.

Further regarding claim 6, the e-fluential references disclose the step of reformatting the plurality of predictive variables into numeric representations of gains ("Burson-Marsteller's e-fluentialsSM research": Figs. F through K show percentage gains in activities, i.e., predictive variables, engaged in by e-fluentials versus the general online population; "The e-fluentials": Page 10 shows percentage gains related to varying demographics, i.e., predictive variables, more commonly representative of e-fluentials versus the general online population).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Doherty (U.S. Patent No. 7,143,054) – Performs an assessment of communication strengths of individuals from electronic messages.

Barbuto, Jr. et al., "A Field Examination of Two Measures of Work Motivation as Predictors of Leaders' Influence Tactics" – Discusses the role that demographics play in leadership patterns and tactics.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susanna M. Diaz/
Primary Examiner, Art Unit 3692
February 18, 2008

Evidence Appendix B

Enter Web Address: All [Adv Search](#) [Compare Archive Pages](#)Searched for <http://www.efluentials.com>

74 Results

ote some duplicates are not shown. See all.
 denotes when site was updated.

Search Results for Jan 01, 1996 - Jul 07, 2006

1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
0	0	0	0	4 pages	2 pages	10 pages	30 pages	17 pages	8 pages	21 pages
pages	pages	pages	pages							
				Oct 17, 2000 *	Sep 25, 2001 *	Jun 01, 2002 *	Feb 03, 2003 *	Feb 11, 2004 *	Jan 30, 2005 *	
				Oct 18, 2000	Nov 28, 2001	Aug 02, 2002	Feb 06, 2003	Feb 17, 2004	Feb 05, 2005 *	
				Oct 19, 2000		Aug 10, 2002	Feb 20, 2003	Mar 17, 2004	Feb 06, 2005	
				Nov 10, 2000		Sep 21, 2002 *	Mar 21, 2003	Apr 02, 2004	Feb 07, 2005	
						Sep 26, 2002	Mar 22, 2003	Apr 03, 2004	Feb 08, 2005	
						Sep 27, 2002	Apr 01, 2003	Apr 04, 2004	Mar 03, 2005	
						Oct 17, 2002	Apr 06, 2003	Apr 29, 2004	Mar 06, 2005	
						Nov 23, 2002 *	Apr 11, 2003	May 23, 2004 *	Mar 07, 2005	
						Nov 30, 2002	Apr 21, 2003 *	May 25, 2004		
						Dec 07, 2002	May 25, 2003	Jun 09, 2004 *		
							Jun 04, 2003	Jun 11, 2004		
							Jun 06, 2003	Jun 27, 2004		
							Jun 07, 2003	Sep 25, 2004		
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							Nov 25, 2003			
							Dec 05, 2003			
							Dec 08, 2003			
							Dec 31, 2003 *			

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☒ e-fluentials

e-fluentials Research

e-fluentials Quiz

Discussion

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Electronic communication and e-commerce are rapidly changing daily life and the exchange of online information is supplanting more traditional modes of getting things done. We have identified a group of online movers and shakers who shape the opinions and attitudes of the Internet community. We call them the e-fluentials. Representing 10% of the online population, approximately 11 million users, this group reaches more people on more topics than the average online users.

Knowing the habits of e-fluentials is becoming more important to business every day. Our research has identified who the e-fluentials are, how they spread their messages, where they are active online and many other valuable keys to their influence.

Are you e-fluential?

Take our [short quiz](#) to find out. And be sure to browse the rest of our site to learn more about this powerful group of online influencers.

This study was created and commissioned by Burson-Marsteller in partnership with RoperASW.

Are you
e-fluential?
Find out now!

e-fluentials
partners with
Planet Feedback
Read the
press release here

The power of online
influencers -
Discover the
Six Secrets of
E-fluentials

View the
Webcast

Conferences

Are you
e-fluential?
Find out now!

Are you e-fluential?

Just answer a few questions below to find out instantly if you are e-fluential. Please be assured that your individual responses will be kept confidential. If you would like more information, read our [Privacy Policy](#).

Thanks and good luck!

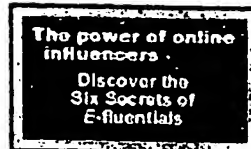
General Information

E-mail address:

First name:

Last name:

Country:



E-fluential Survey

The following is a list of ways that people can express their opinion online. In the past 12 months, how often did you express your opinion by each of these means?

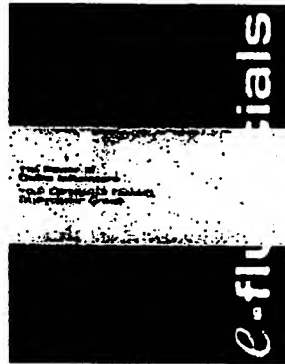
	Almost Daily	A few times/wk.	A few times/mo.	Time to time	Never
Participated in chat rooms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Posted to bulletin boards	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Posted to newsgroups	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Posted to listservs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sent e-mails to companies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sent e-mails to politicians	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sent e-mails to well-known news and media companies (e.g., Time, Newsweek, CNBC)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Made friends online	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Made business contacts online	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Provided feedback to Web sites	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Forwarded news and Web site information to others	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Are you
e-fluential?
Find out now!

e-fluentials Research

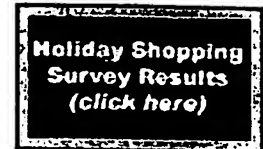
E-fluentials make waves, projecting their opinions far beyond their individual contacts. These Internet world travelers frequent sites both well-established and vanguard, making their opinions a valuable commodity. Their expertise touches people's lives in many different ways, shaping behavior both online and off.

2001



[Press Kit](#)

[e-fluentials In The News](#)



[Charts](#)

2000

The e-fluentials
Burson-Marsteller

[Charts](#)

← Link to e-fluential Research Charts (attached pp. 5-23)

e

Are you
e-fluential?
Find out now!

e-fluentials Research Charts

The following charts support the first wave of e-fluentials research.

The exponential power of influencers on the net
Are the Online Opinion Elite - (two charts)
Are Marketing Multipliers
Seek Information From Many Different Sources - (three charts)
Are Technologically Savvy
Are Influential Both On and Offline
Are Attitudinally Different - (two charts)
Definition

Charts

The Exponential
Power of Influencers
on the Net

The power of online
influencers -
Discover the
Six Secrets of
E-fluentials

Fig. A

Back to Top

(6)

e-fluentials Are
the On-line
Opinion Elite

Asked about
Current Events
Finding the best
values on products
Entertainment (e.g.,
restaurants, movies,
books, music)

Companies
businesses

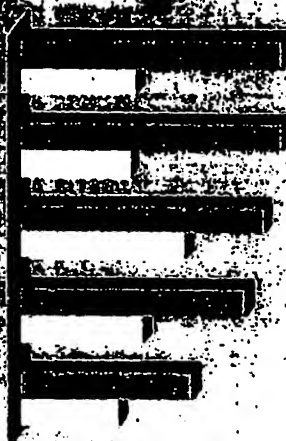


Back to Top

Fig. B

← e-fluentials
← General Online Population

← % saying they were asked to provide opinion in the above areas in the past 12 months



Back to Top

Fig. C

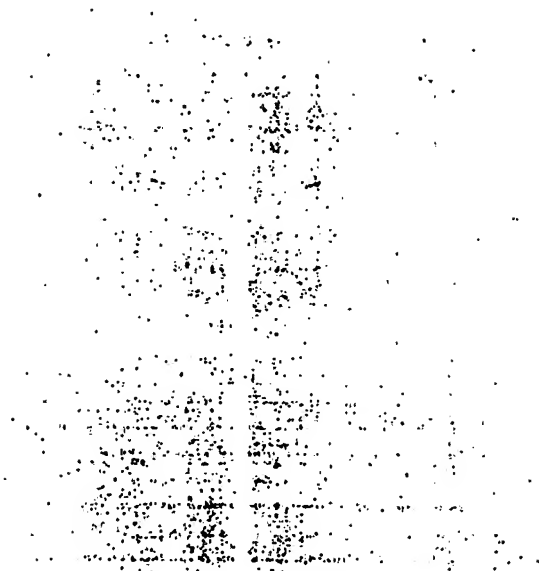


Fig. D

Back to Top



Fig. E

Back to Top

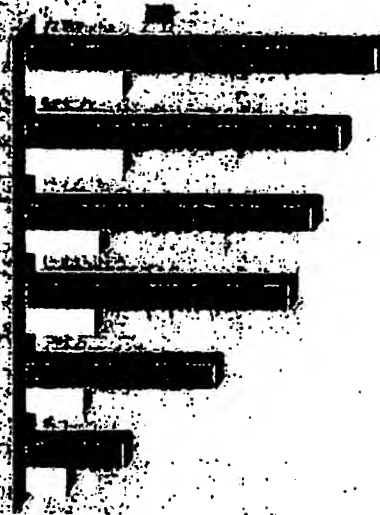


Fig. F

[Back to Top](#)



Fig. G

[Back to Top](#)

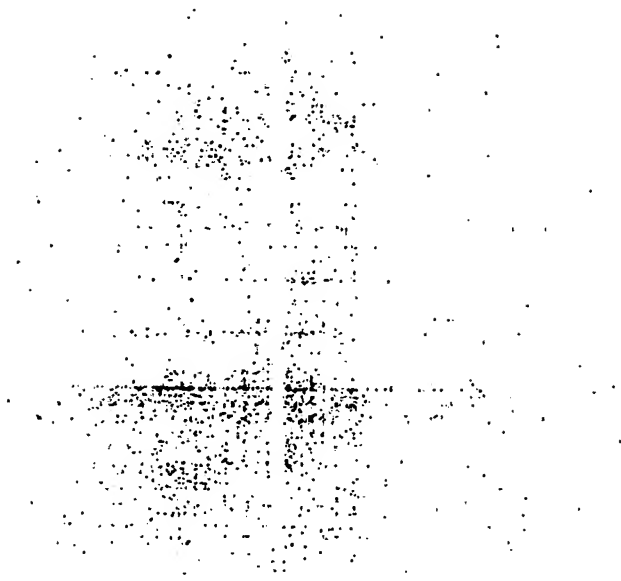


Fig. H

Back to Top

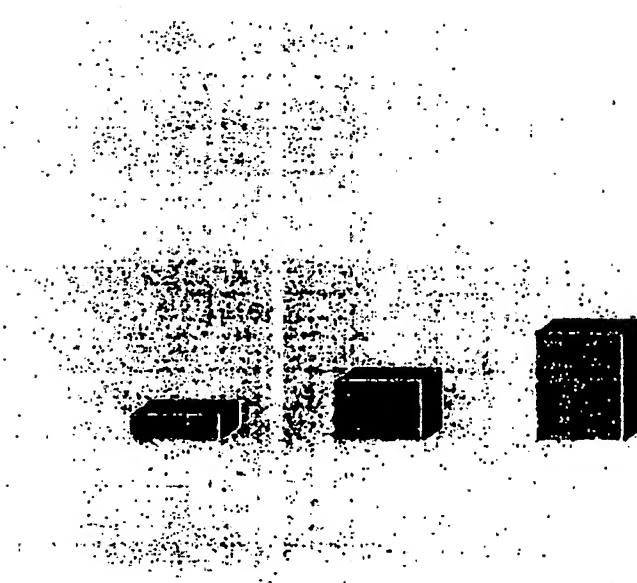


Fig. I

Back to Top



Fig. J

Back to Top



Fig. K

Back to Top

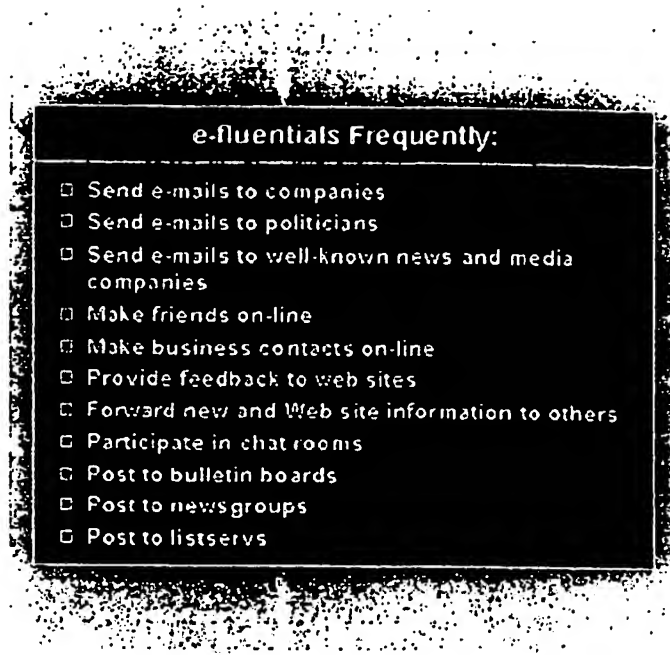


Fig. L

[Back to Top](#)

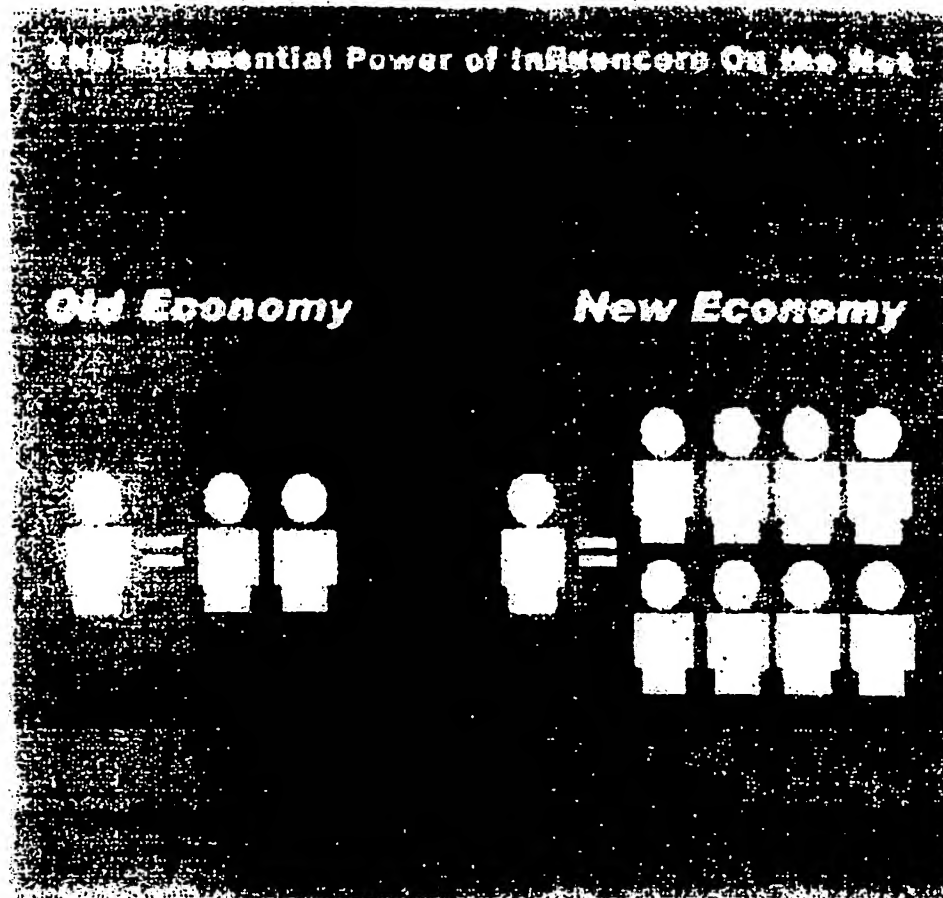


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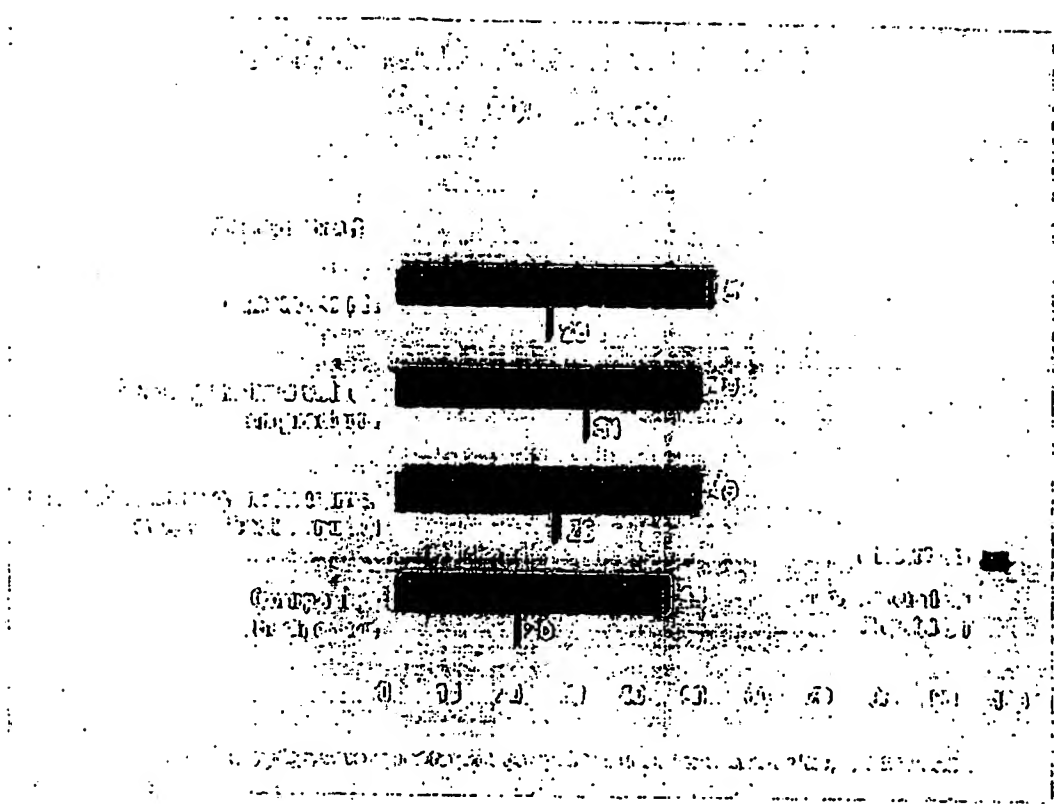


Fig. B

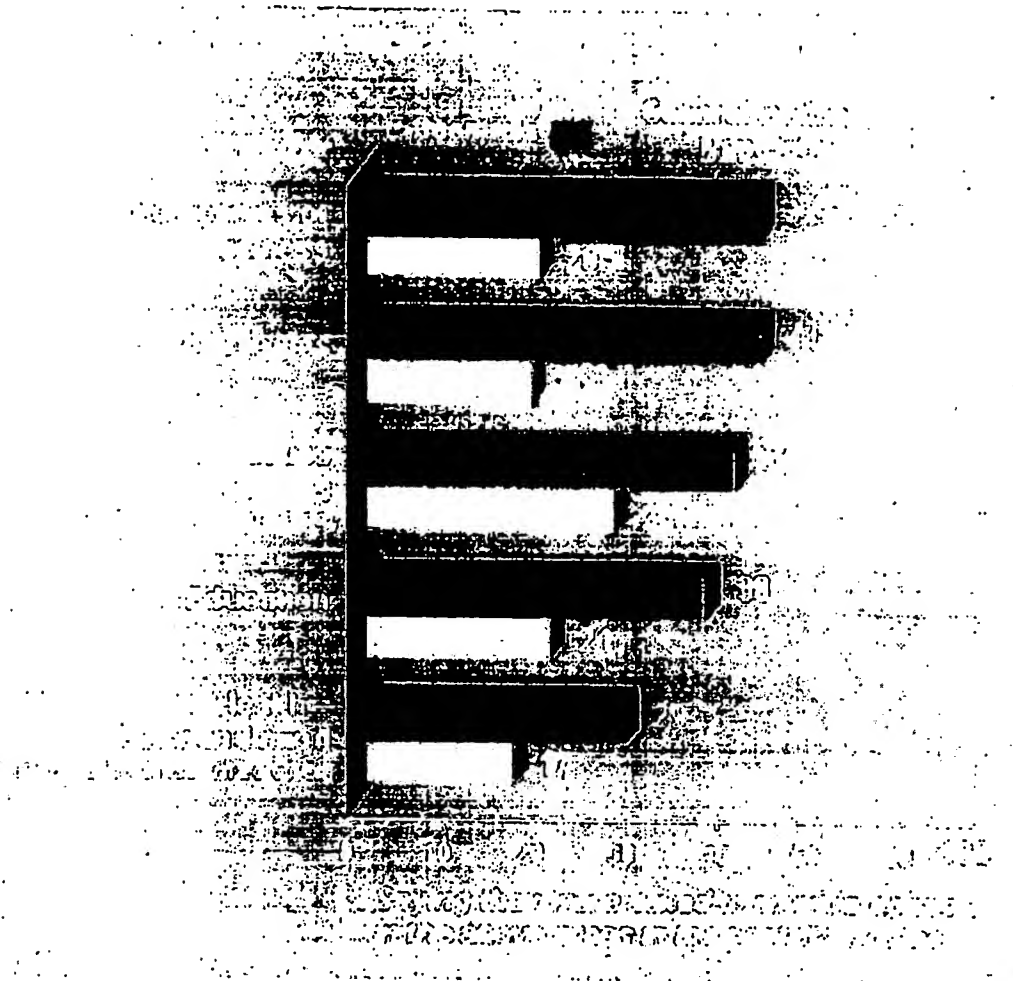


Fig. C

ESTIMATED NUMBER OF RESEARCH PERSONNEL	
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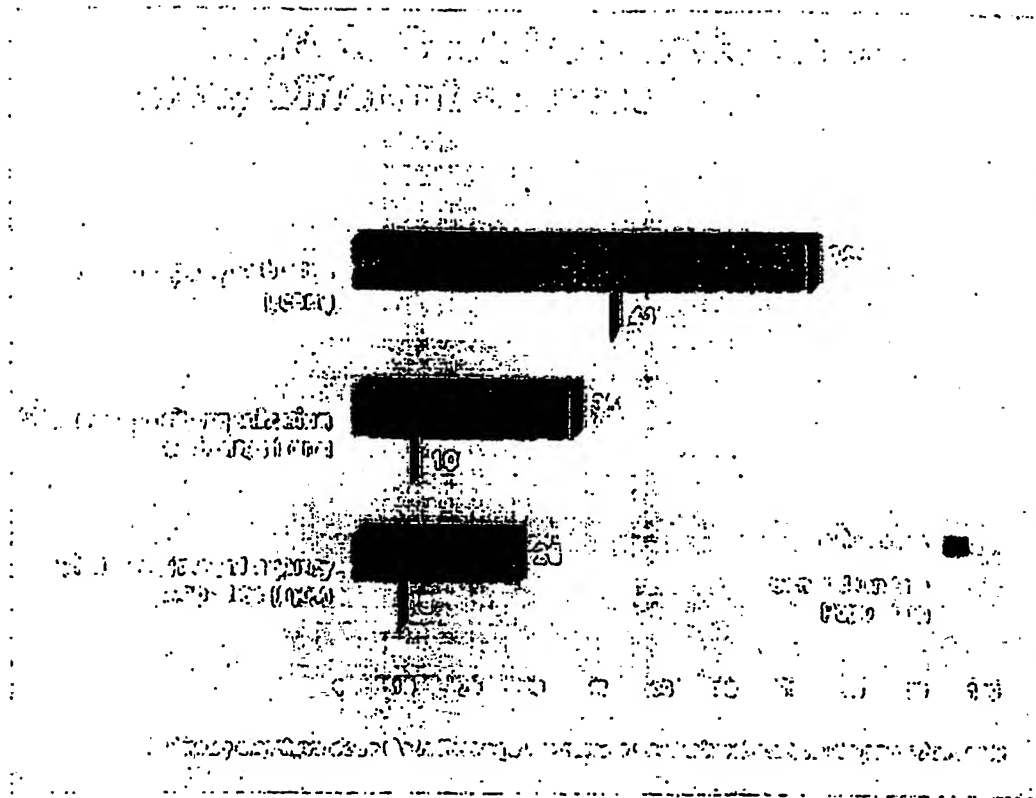


Fig. E

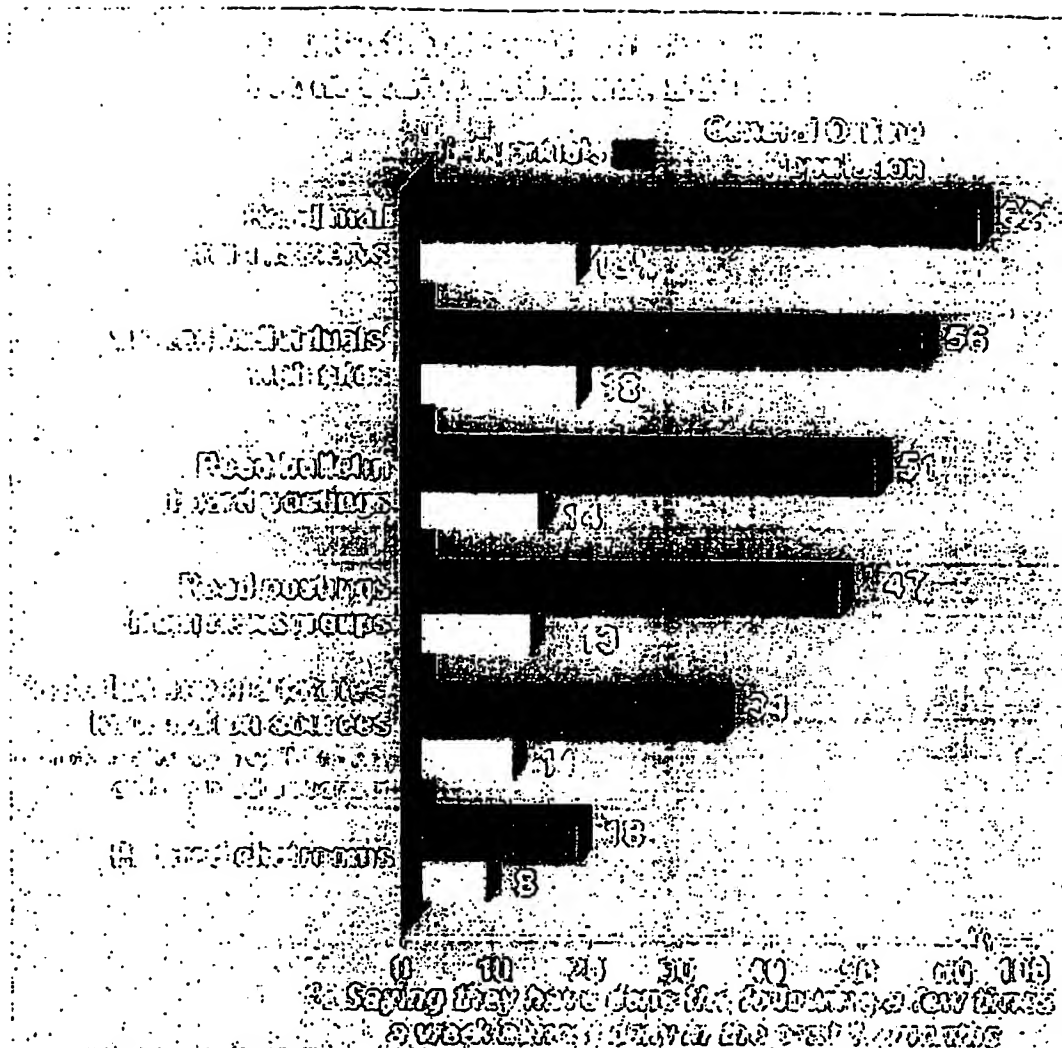


Fig. F

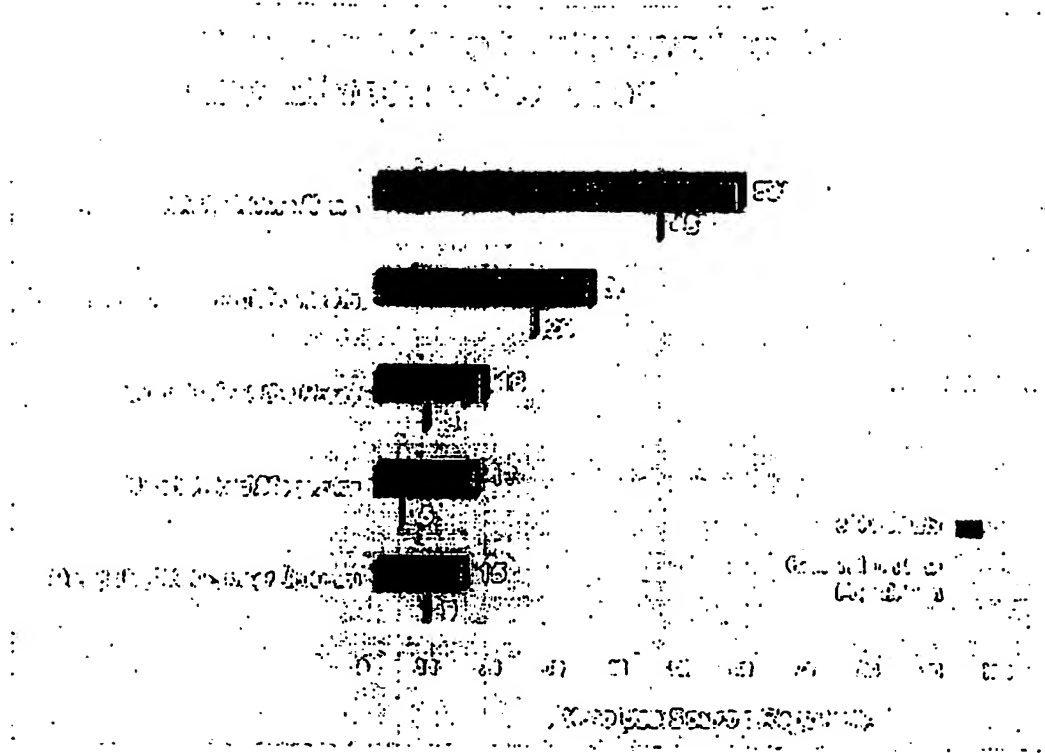


Fig. 9

	Office Users	Executive Office
All Users	23%	13%
Intermediate User	21	20
Advanced User	45	35
Expert User	31	12

Chart showing that offices to go on line of navigation are higher in the intermediate, advanced or expert.

Fig. H

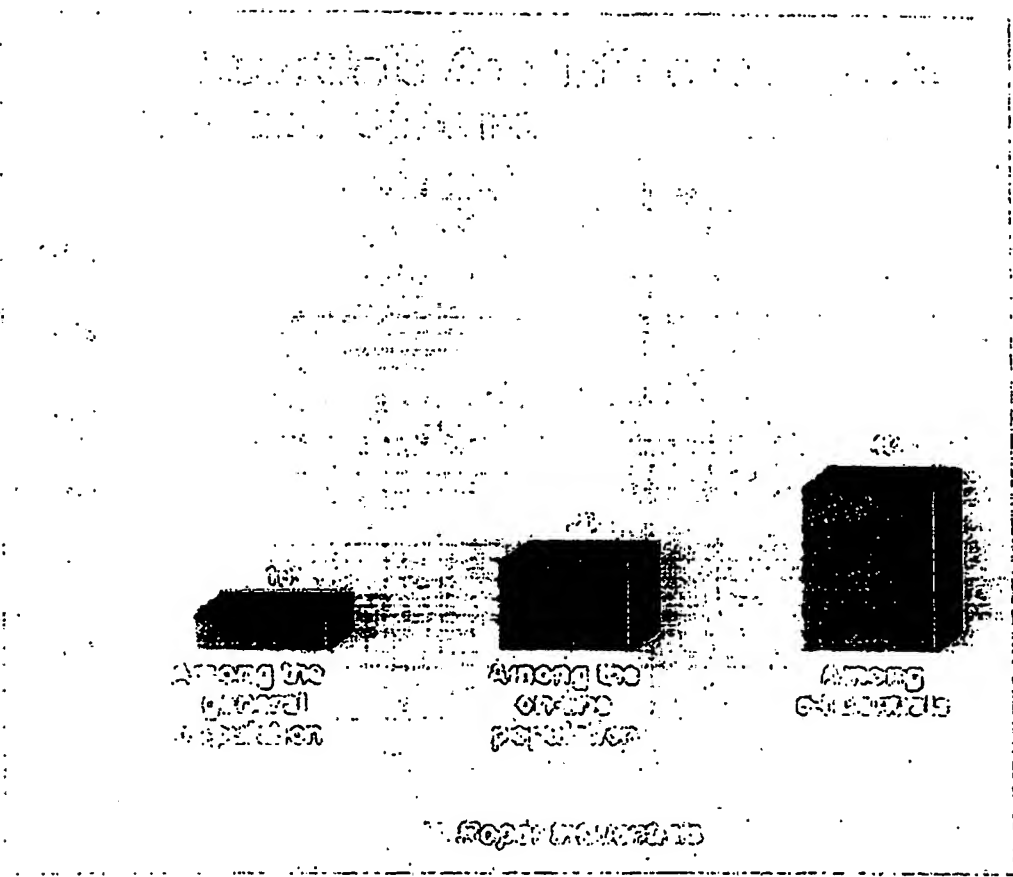


Fig. I

23

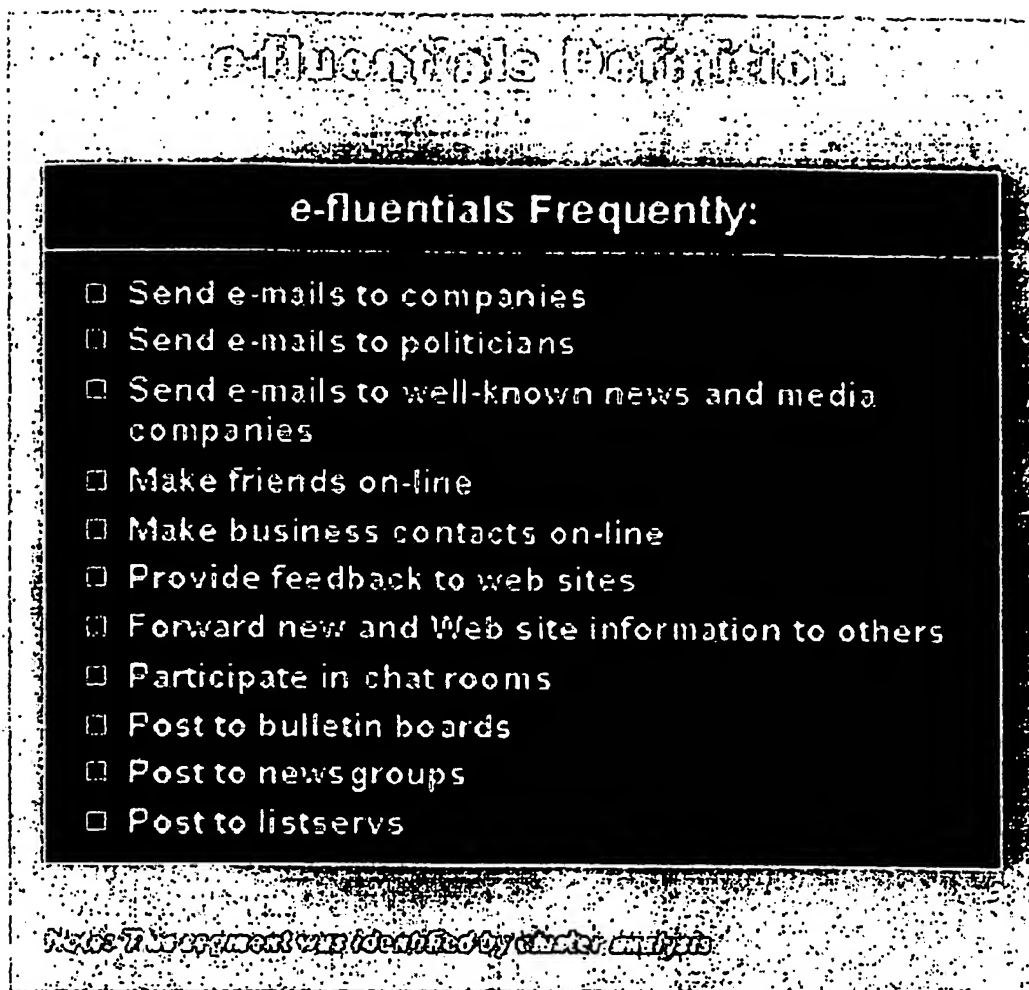


Fig. L

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151 Results

Note some duplicates are not shown. [See all](#).

* denotes when site was updated.

Material typically becomes available here 6 months after collection. [See FAQ](#).

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1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	
0	0	0	0	5 pages	2 pages	12 pages	24 pages	24 pages	30 pages	3
pages	pages	pages	pages							
				Aug 15, 2000	* Sep 25, 2001	* Mar 24, 2002	* Feb 03, 2003	* Feb 11, 2004	* Jan 06, 2005	Jan
				Oct 17, 2000	* Nov 28, 2001	May 23, 2002	* Feb 15, 2003	Feb 17, 2004	Jan 30, 2005	Jan
				Oct 18, 2000		Jun 01, 2002	Feb 20, 2003	Mar 17, 2004	Feb 05, 2005	* Jan
				Oct 19, 2000		Aug 02, 2002	Mar 21, 2003	Apr 02, 2004	Feb 06, 2005	Jan
				Nov 10, 2000		Aug 10, 2002	Mar 22, 2003	Apr 03, 2004	Feb 07, 2005	Jan
						Sep 21, 2002	* Apr 01, 2003	Apr 04, 2004	Feb 08, 2005	Jan
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							Aug 08, 2003	Aug 30, 2004	Jul 26, 2005	Jun
							Oct 01, 2003	Sep 25, 2004	Jul 27, 2005	Jun
							Oct 06, 2003	Sep 26, 2004	Aug 16, 2005	Jul
							Oct 08, 2003	Oct 09, 2004	Aug 26, 2005	Aug
							Nov 18, 2003	Oct 20, 2004	Aug 28, 2005	Aug
							Nov 23, 2003	Oct 27, 2004	* Aug 30, 2005	Aug
							Dec 05, 2003	Dec 02, 2004	* Aug 31, 2005	Oct
							Dec 08, 2003	Dec 04, 2004	Sep 01, 2005	Nov
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									Sep 19, 2005	Nov
									Sep 20, 2005	Dec
									Nov 26, 2005	Dec
									Nov 30, 2005	Dec
									Dec 30, 2005	Dec
									Dec 31, 2005	Dec

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Electronic communication and e-commerce are rapidly changing daily life, and the exchange of online information is supplanting more traditional modes of getting things done. Burson-Marsteller has identified a group of online movers and shakers who shape the opinions and attitudes of the Internet community. We call them the **e-fluentials**. This group, representing 10% of the online population (approximately 11 million users), reaches more people on more topics than the average online user.

Knowing the habits of e-fluentials is becoming more important to business every day. Our research has identified who e-fluentials are, how they spread their messages, where they are active online and many other valuable keys to their influence.

Are you e-fluential?

Take our [brief quiz](#) to find out. And be sure to browse other sections of our site to learn more about this powerful group of online influencers.

Thank you for visiting.

The e-fluentials study was created and commissioned by [Burson-Marsteller](#) in partnership with [RoperASW](#).

e-fluentials
partners with
Planet Feedback
Read the
press release here

The power of online
influencers
Discover the
Six Secrets of
E-fluentials

Conferences



e-fluentialsSM

Are you
e-fluential?
Find out now!

Are you e-fluential?

Just answer a few questions below to find out instantly if you are e-fluential. Please be assured that your individual responses will be kept confidential. If you would like more information, read our [Privacy Policy](#).

Thanks and good luck!

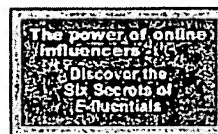
General Information

E-mail
address:

First
name:

Last
name:

Country: United States



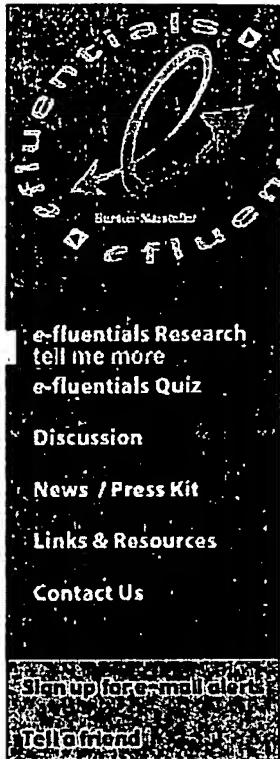
E-fluential Survey

The following is a list of ways that people can express their opinion online. In the past 12 months, how often did you express your opinion by each of these means?

	Almost Daily	A few times/wk.	A few times/mo.	Time to time	Never
Participated in chat rooms	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Posted to bulletin boards	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Posted to newsgroups	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Posted to listservs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sent e-mails to companies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sent e-mails to politicians	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sent e-mails to well-known news and media companies (e.g., Time, Newsweek, CNBC)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Made friends online	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Made business contacts online	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Provided feedback to Web sites	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Forwarded news and Web site information to others	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

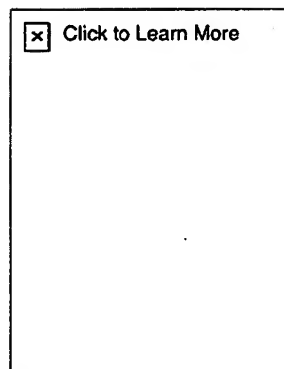
Submit

Reset

**e-fluentialsSM**

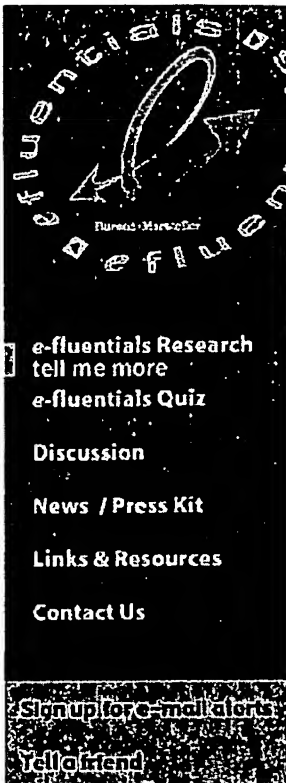
e-fluentials Research

E-fluentials make waves, projecting their opinions far beyond their individual contacts. These Internet world travelers frequent sites both well-established and vanguard, making their opinions a valuable commodity. Their expertise touches people's lives in many different ways, shaping behavior both online and off.

2001[Charts](#)**2000**[Charts](#)

**Are you
e-fluential?
Find out now!**

[Press Kit](#)[e-fluentials In The News](#)



e-fluentialsSM

**Are you
e-fluential?
Find out now!**

e-fluentials Research Charts

The following charts support the first wave of e-fluentials research.

- [The exponential power of influencers on the net](#)
- [Are the Online Opinion Elite - \(two charts\)](#)
- [Are Marketing Multipliers](#)
- [Seek Information From Many Different Sources - \(three charts\)](#)
- [Are Technologically Savvy](#)
- [Are Influential Both On and Offline](#)
- [Are Attitudinally Different - \(two charts\)](#)
- [Definition](#)

Charts

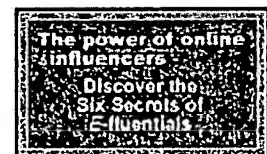
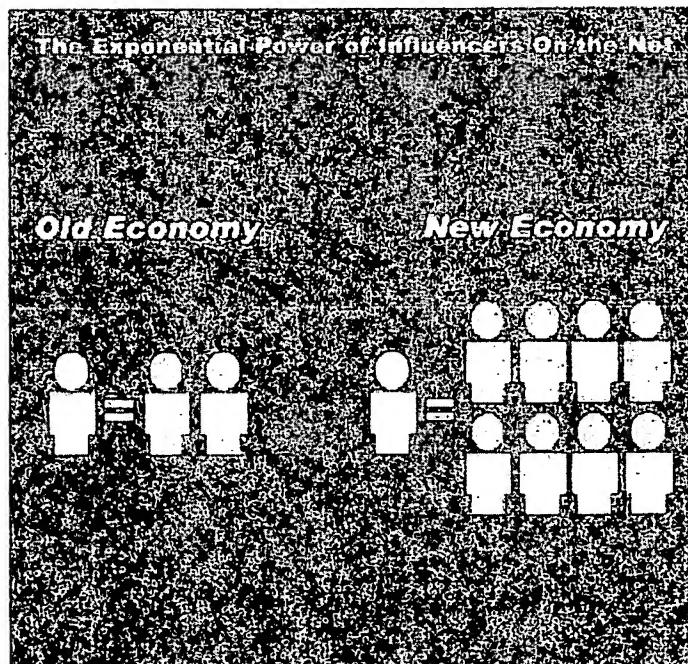


Fig. A

[Back to Top](#)

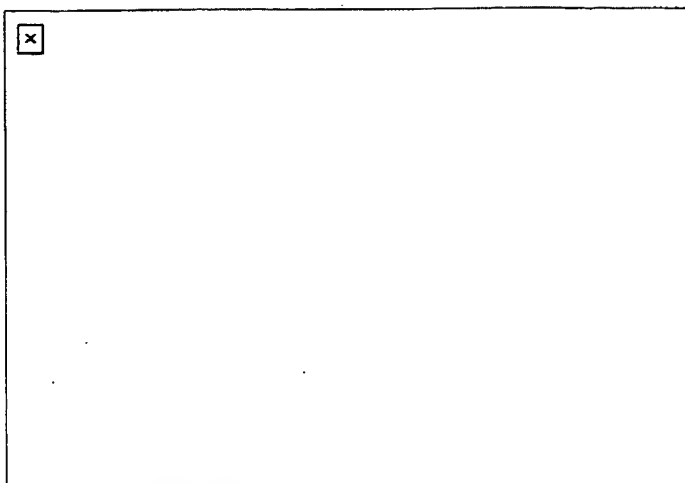


FIG. B
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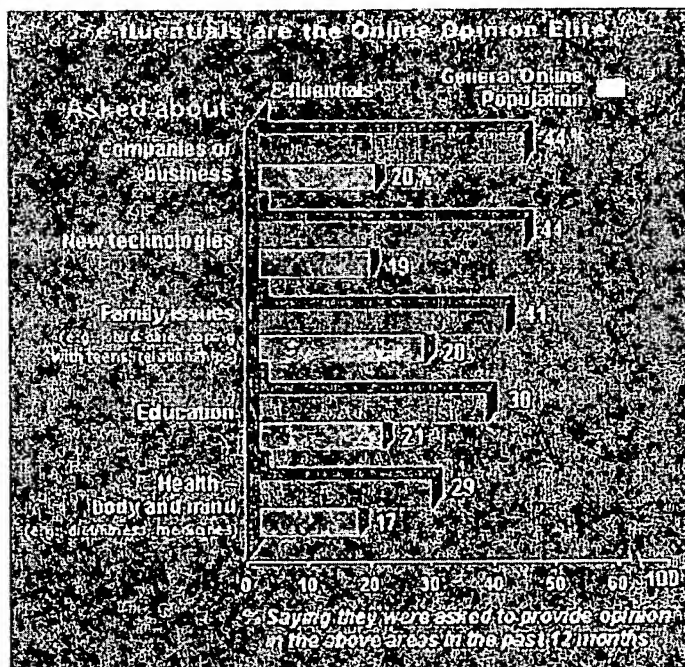


FIG. C

[Back to Top](#)

Estimated e-fluential Marketers Multipliers

Topic	Estimated Number of Recommendations
News/Events	102 Million
New Technologies	86 Million
Companies and Business	68 Million
Health	81 Million
Products	72 Million
Politics	59 Million

Fig. D

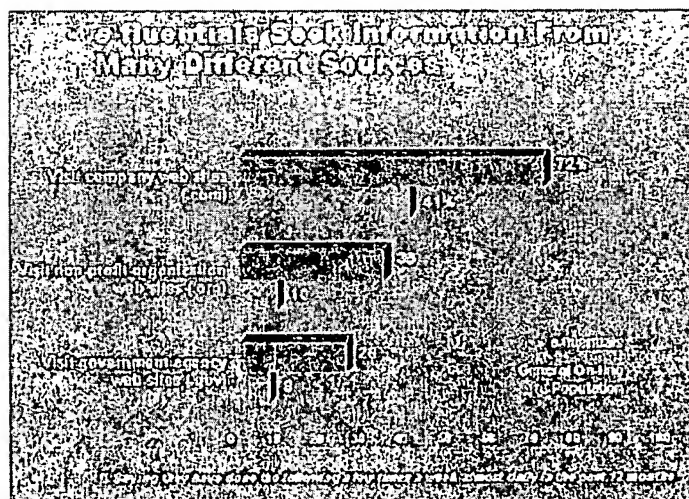
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Fig. E

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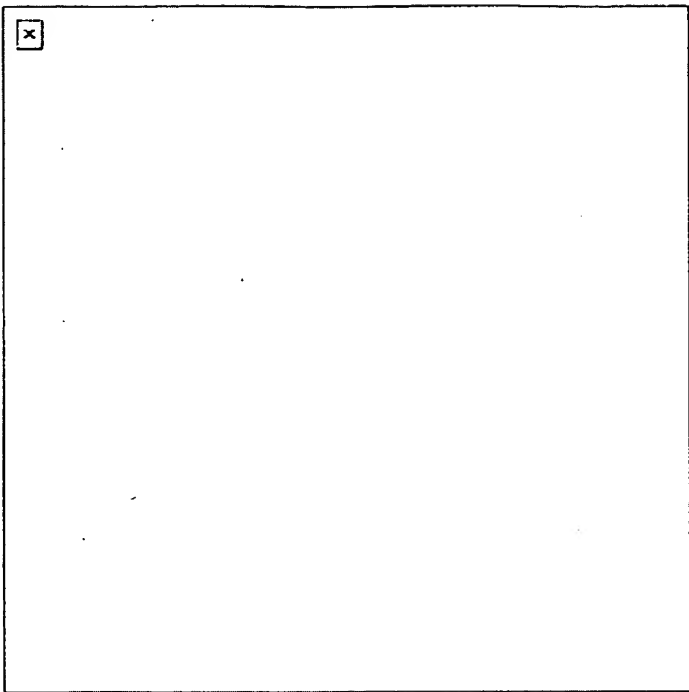


Fig. F
(NO LONGER AVAILABLE)

[Back to Top](#)



Fig. G

[Back to Top](#)

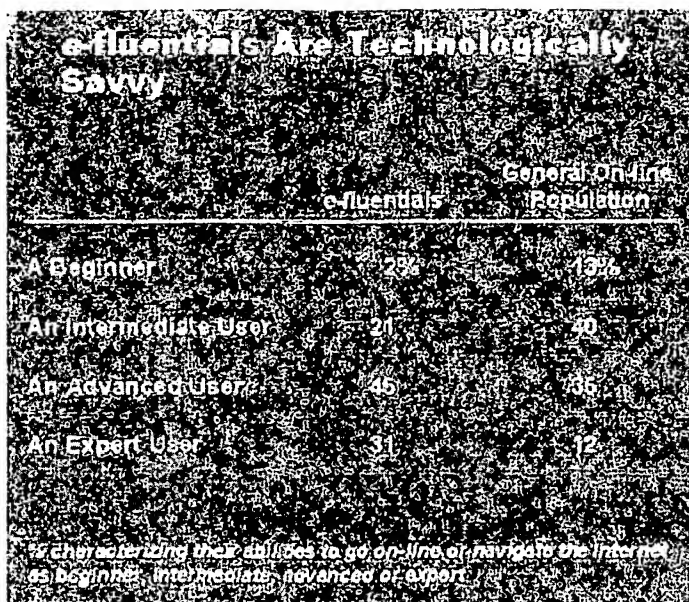


Fig. H

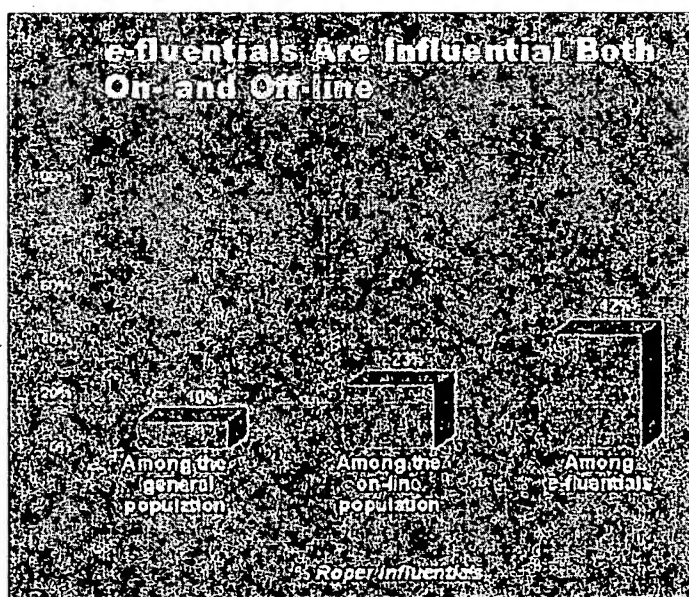
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Fig. I

[Back to Top](#)

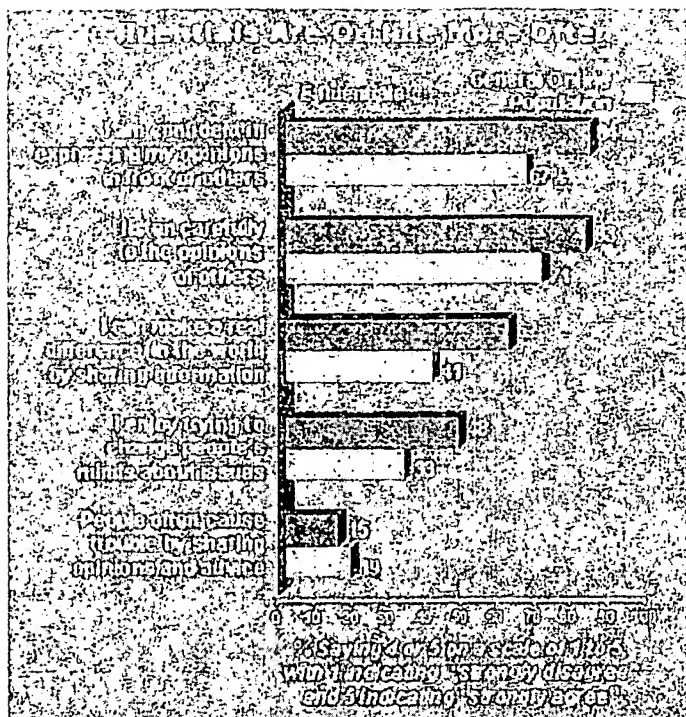


Fig. J

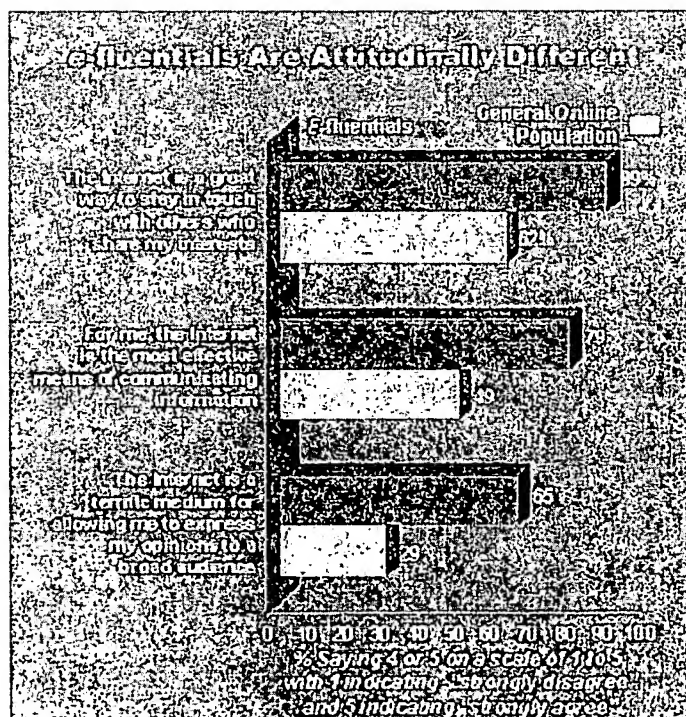
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Fig. K

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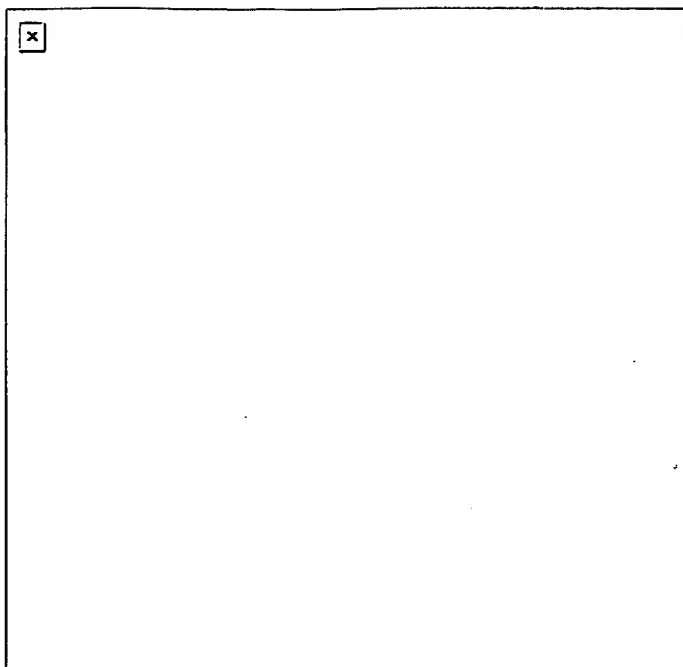


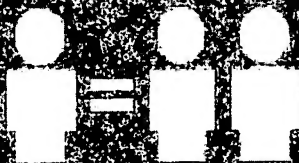
FIG. L
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[Back to Top](#)

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The Exponential Power of Influencers On the Net

Old Economy



New Economy

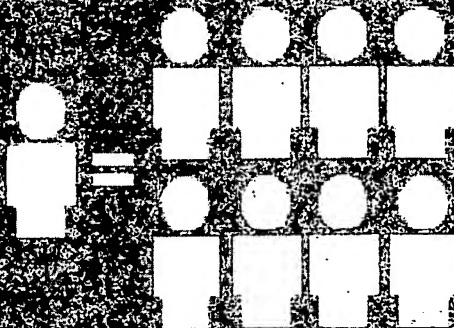


FIG. A



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FIG. B

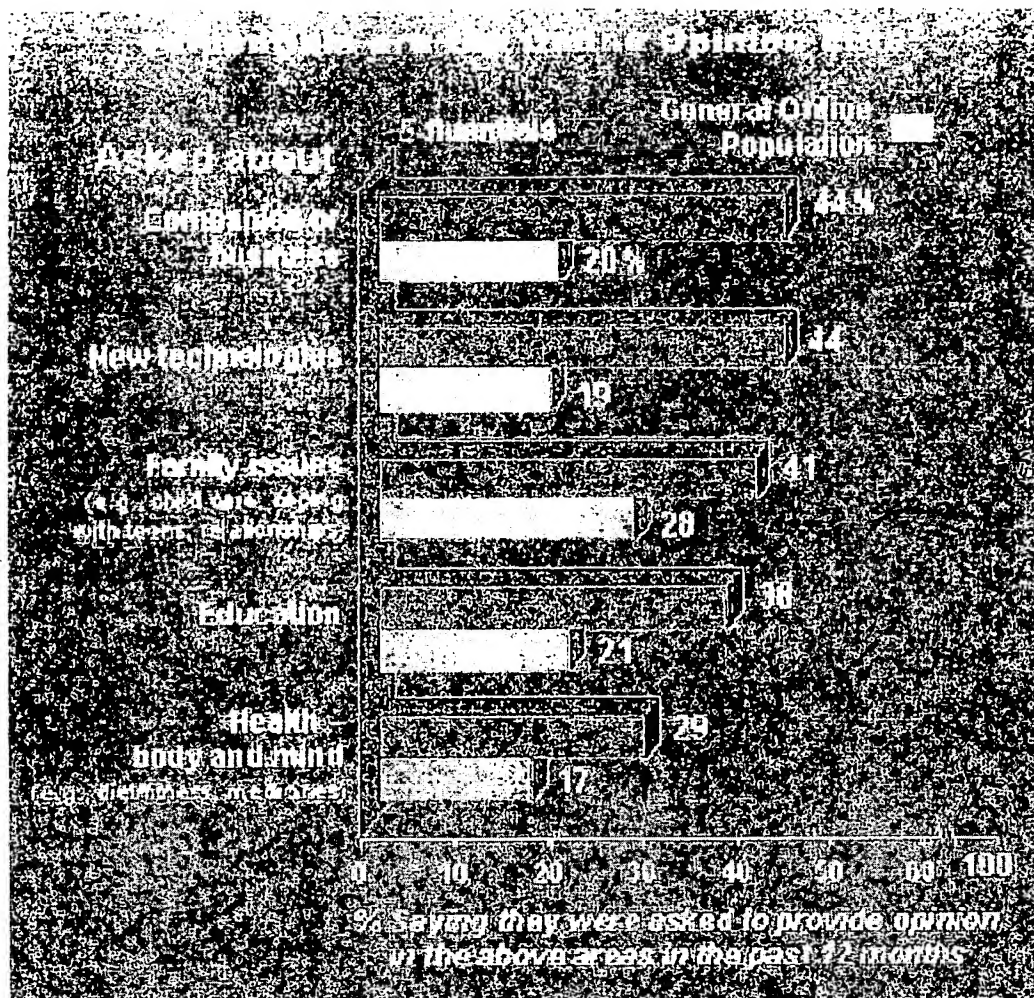


Fig. C

Estimated Base Marketing Multipliers	
Topic	Estimated Number of Recommendations
News Events	107 Million
New Technologies	96 Million
Companies and Business	88 Million
Health	81 Million
Products	73 Million
Politics	59 Million

Fig. D

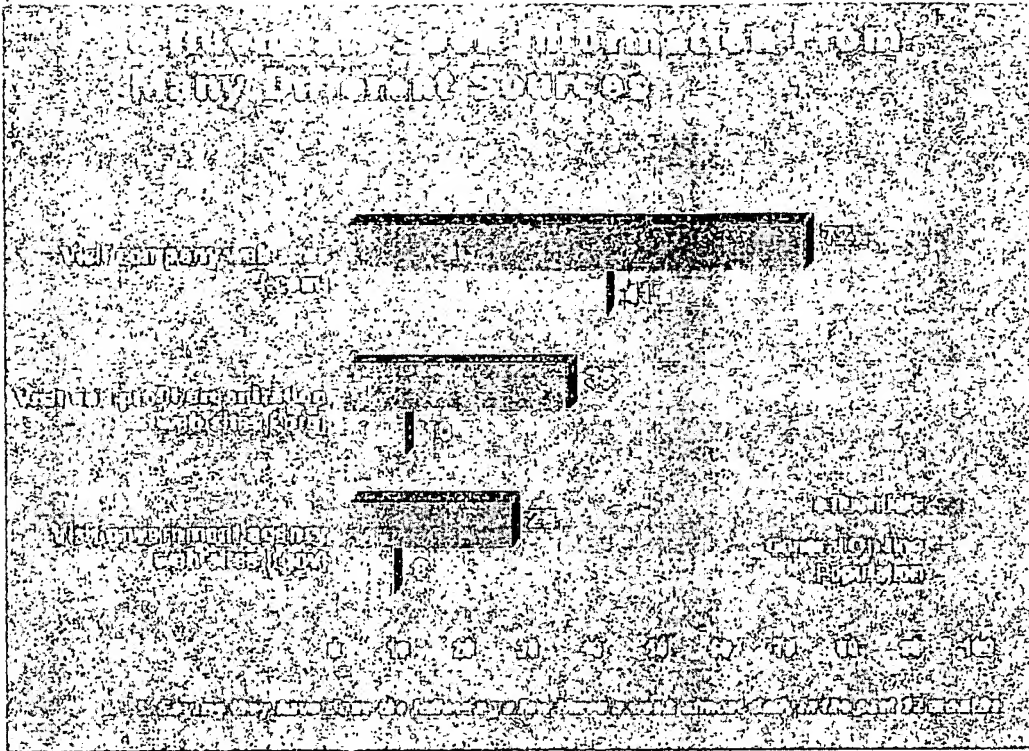


Fig. E



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FIG. F

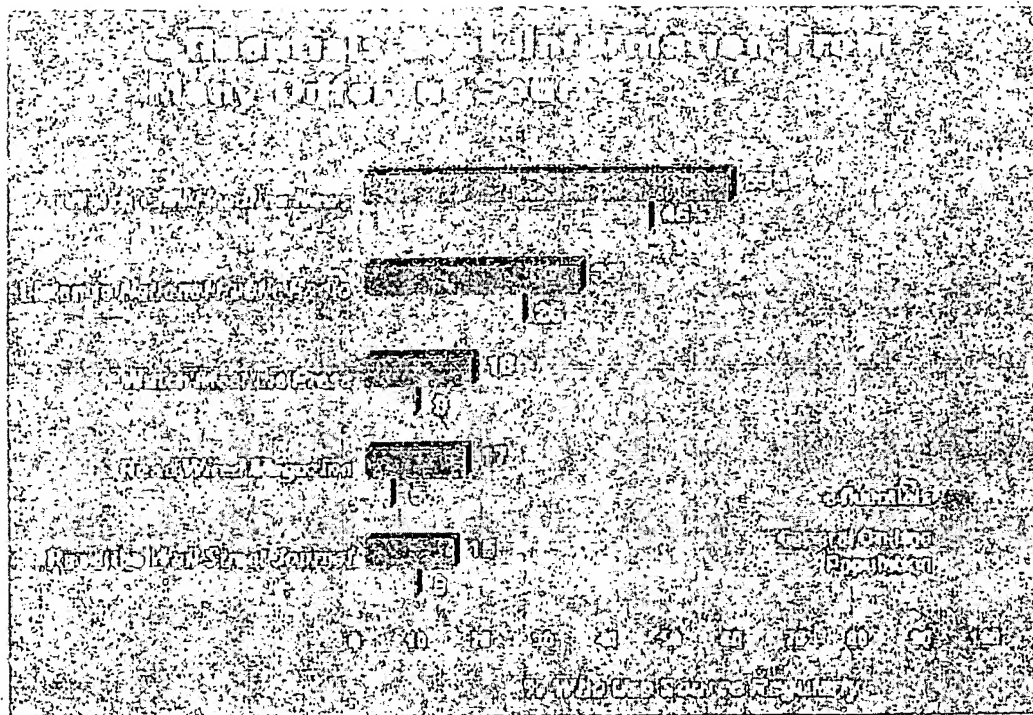


Fig. G

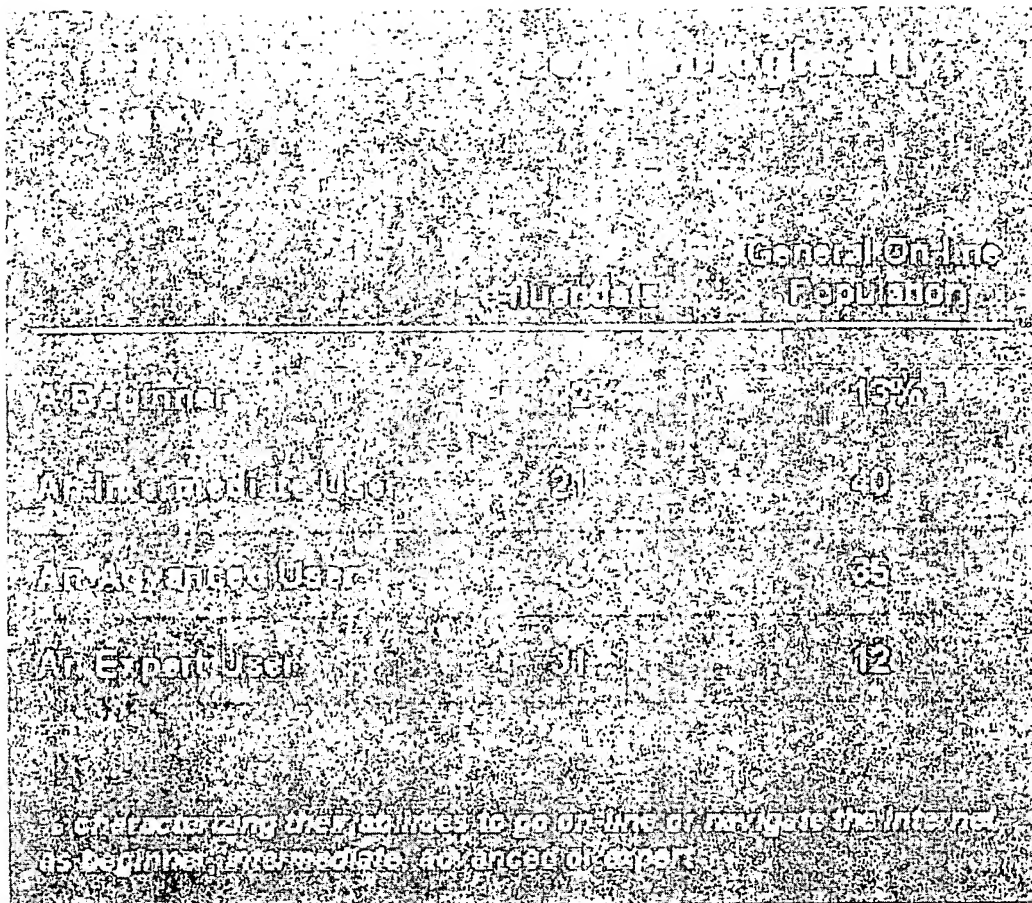


Fig. H

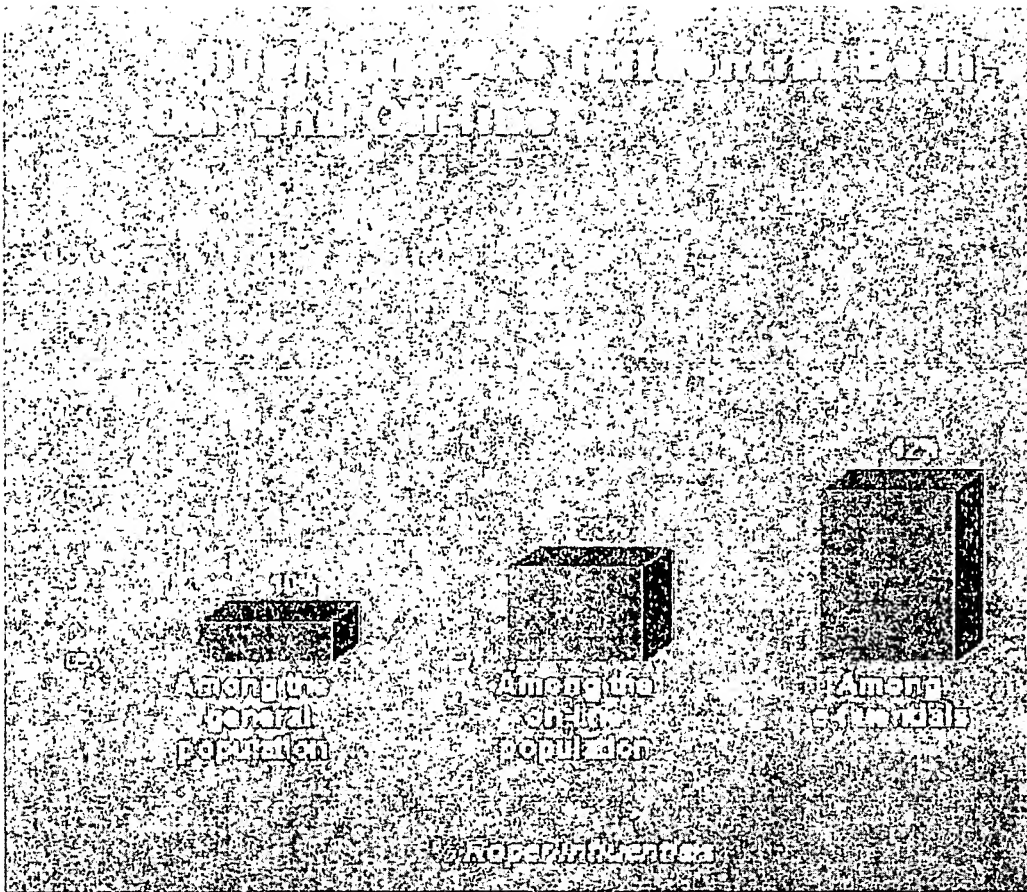


Fig. I

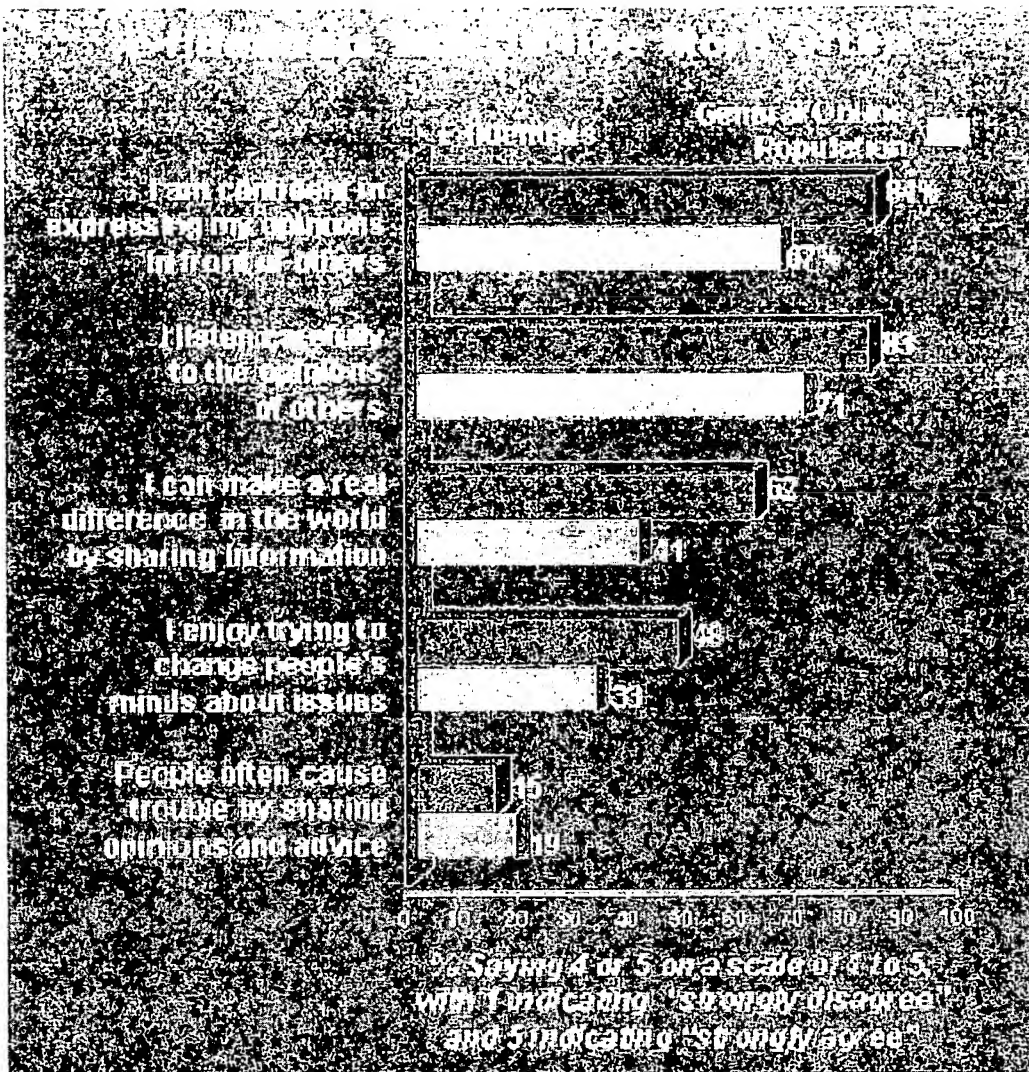


Fig. J

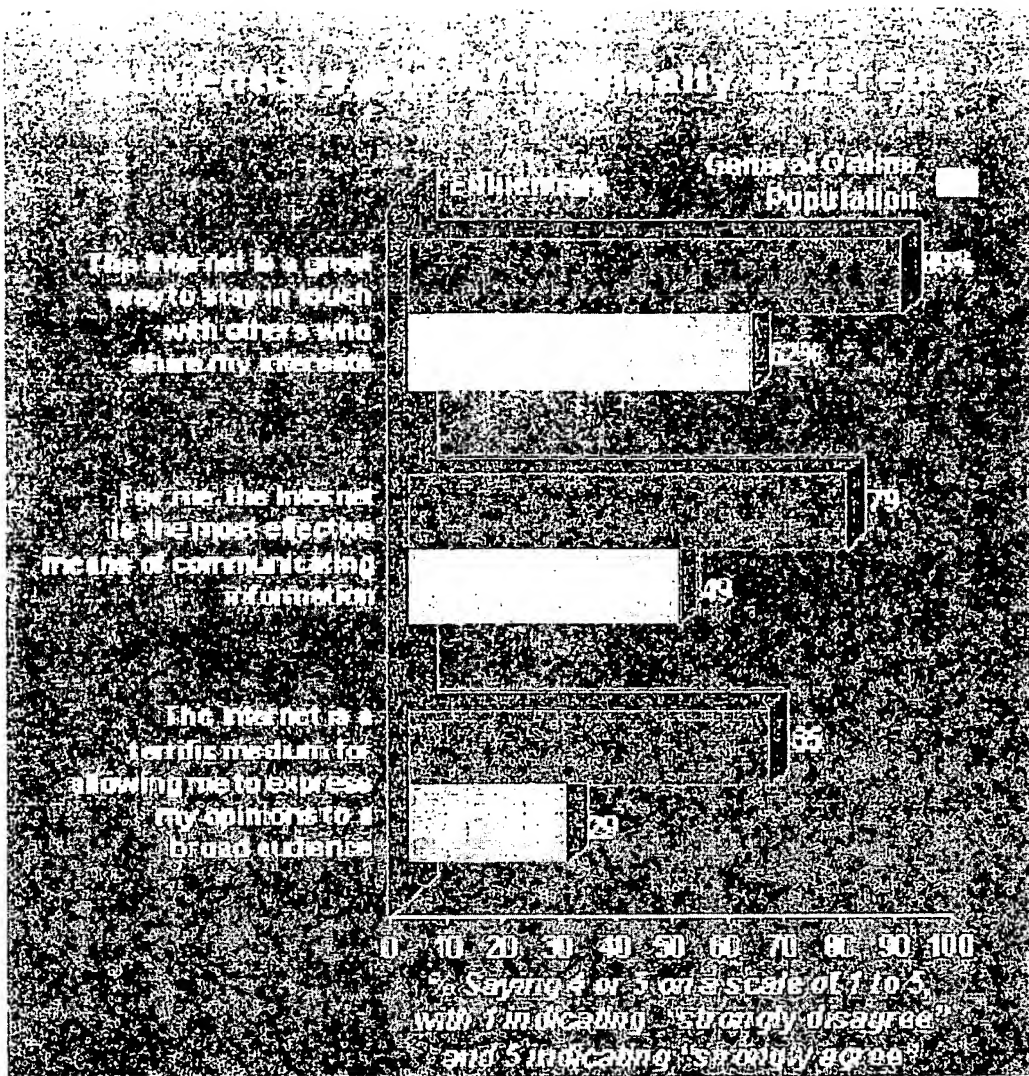


FIG. K



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Fig. L

Evidence Appendix C

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Ninety Percent of Online Influentials Turn to Company Web Sites For Corporate Information, But Only 17 Percent Find Them Credible

Business Newspapers/Magazines and Non-Profit Web Sites Rank Among Most Credible Corporate Information Sources

NEW YORK, October 13, 2003- Almost all online influentials visit company Web sites to gather corporate information, but only one in five find the sites credible, according to a new study released today by Marsteller, the full-service advertising, design, interactive and productions agency.

The research was conducted among online influentials, known as e-fluentials SM. The study investigated how these powerful online stakeholders gathered company-related information. It found that almost all online influentials (90 percent) visit company Web sites to gather corporate information. However only one in five (17 percent) finds online corporate areas credible.

"Online influentials are going to Web sites in great numbers. There's an opportunity here for companies to become thought leaders, differentiate their brands and build relations with powerful stakeholders by providing unbiased, accurate and detailed information on their Web sites," said Andrew Nibley, Chairman of Marsteller, the advertising and creative affiliate of public relations firm Burson-Marsteller.

In this era of intense corporate governance scrutiny, it is crucial to quench online influentials' appetite for business information while communicating key corporate messages. Online influentials consider business newspapers/magazines (46 percent) and non-profit Web sites (33 percent) among the most credible corporate information sources.

"Company Web sites may link to such third-party sources to support their points of view and emphasize their candidness. Blending objective information with corporate advertising elements is the basis for connecting with influential audiences online," said Mike McKenna, President and CEO of Marsteller.

Also according to the survey, online influentials are most likely to notice a company's new products/services (72 percent), brands and slogans (44 percent), values

(39 percent) and vision (38 percent) in corporate advertising. "Companies weaving these concepts and features into their Web sites would get the full benefit of online influentials' attention," added Erin Byrne, Director of Interactive Services at Marsteller.

About The *E*-fluentials Corporate Advertising Study

The *E*-fluentials Corporate Advertising Study was conducted among a panel of individuals who registered with www.efluentials.com and qualified as online public opinion leaders after completing a series of questions about their online communications behavior. To select *e*-fluentials, a predictive algorithm was used based on earlier research conducted by Burson-Marsteller with RoperASW. A total of eighty-two *e*-fluentials completed the survey online. The study was administered between June 11th and July 5th, 2003.

About www.efluentials.com

E-fluentials.com is a Web site dedicated to Burson-Marsteller's proprietary research about online public opinion leaders. The Web site is a resource of viral marketing news and research, covering studies on *e*-fluentials from 1999 to present. Web site visitors can participate in public opinion polls by taking the *e*-fluentials quiz and opting-in to the Burson-Marsteller panel.

About Marsteller

Marsteller is a full-service advertising, design, interactive and productions agency that is focused on measuring deliverable results through a full range of communication disciplines. Operating in Chicago, Frankfurt, Hong Kong, London, Milan, New York, Pittsburgh and Washington DC, the agency focuses on business-to-business, corporate, financial, crisis/issues and brand-building related projects for clients.

About Burson-Marsteller

Burson-Marsteller (www.bm.com), established in 1953, is a leading global public relations and communications counseling firm. It provides clients with strategic thinking and program execution across a full range of public relations, public affairs, advertising and other services. The firm's seamless global network is designed to deliver premium, integrated services through 46 wholly-owned offices and 51 affiliate offices, together operating in 58 countries across six continents. In 1979, the firm joined the Young & Rubicam family of companies, which in October 2000 was acquired by WPP Group plc, one of the world's leading communications services groups.

###

Evidence Appendix D

The *e*-fluentials
Burson-Marsteller

2 0 0 0

TABLE OF CONTENTS

I. Introduction	1
II. Key Findings	
– E-fluentials are Opinion Leaders	2
– E-fluentials are Marketing Multipliers	3
– E-fluentials are also Influentials	4
– E-fluentials are Avid Communicators	5
– E-fluentials are Information Sponges	7
– E-fluentials are Technologically Savvy	9
– E-fluentials are New Product Innovators	9
III. Demographics	10
IV. Methodology	11

I. INTRODUCTION

A new century is upon us. Electronic communications and commerce are rapidly altering the face of daily life in our society, with online communications like e-mail and chat supplanting more traditional modes. As online information exchange grows, relationships and spheres of influence are increasingly virtual. A growing number of politicians, companies, and organizations already rely on the Internet as an essential tool for capturing and directing the course of influence.

Individuals who have the ability to influence others have always been an integral part of society. In the 1940s, Roper Starch Worldwide conducted its groundbreaking study of the Influential Americans™, society's opinion leaders. They account for 10-12% of the US population, but have an impact disproportionate to their size.

Burson-Marsteller, a leading global communications consultancy, has been helping its clients understand and communicate with this audience through traditional media for many years. To extend our understanding of the nature of influence and Influentials to the newly emerging online medium, Burson-Marsteller undertook this unique study.

This research identifies a group of online movers and shakers – the *e*-fluentialsSM – who shape the opinions and attitudes of the Internet community. It explores such questions as, who are they? How many are there? How are they similar to and different from traditional Influentials? How do they get their message across? In what ways are they influential? Where can you find them?

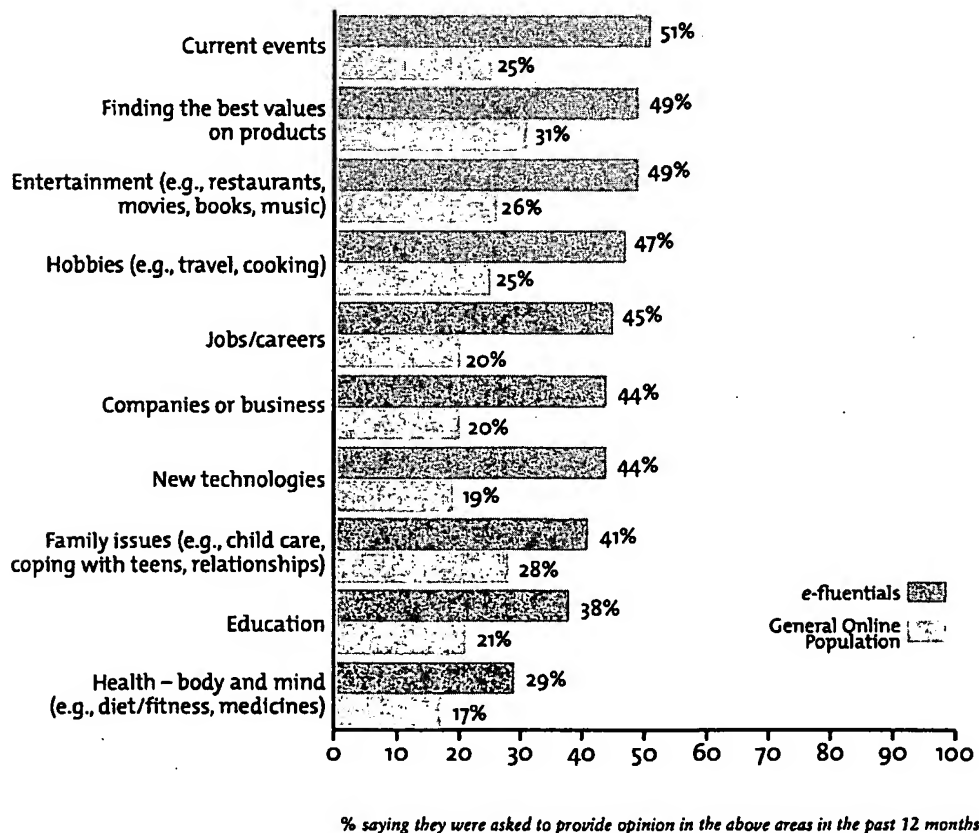
Burson-Marsteller and Roper Starch Worldwide have identified a group of men and women who are much more active than other Internet users in terms of their online influence, using e-mail, newsgroups, bulletin boards, and other online vehicles to convey their messages. Representing 8% of the Internet population – about 9 million users – this group influences more people on more topics than other online users. And while extremely influential in the online world, this group's influence does not stop there. Many *e*-fluentials are also Roper Influentials, which means they spread their views in the offline world as well.

This initial effort has opened a rich vein of information about those who have the most impact in the new media, an area that will require additional research as the transition to an e-society continues.

II. KEY FINDINGS

E-fluentials are Opinion Leaders

E-fluentials make waves, projecting their opinions far beyond the scope of their individual contacts. They are three times as likely as the typical online user to be asked for advice online. Even more noteworthy is the incredible range of subjects on which e-fluentials are consulted. Compared to online users in general, more than twice as many e-fluentials are asked for their opinions on new technologies, business and jobs or careers. Almost half (49%) are consulted on finding the best values on products, versus less than a third (31%) of typical users. Not only are e-fluentials perceived as authorities on consumer and business issues, but on the world at large as well. One in two (51%) e-fluentials provides insight on current events, compared to just 25% of general users.



E-fluentials are Marketing Multipliers

The opinions of *e-fluentials* are far-reaching, radiating to a level of influence disproportionate to their actual size. For this reason, *e-fluentials* are marketing multipliers. Not only are *e-fluentials* approached for advice more often than others, they are approached by more people. In fact, four times as many people consult *e-fluentials* about current events, business and new technologies.

Highly sought and freely given, the thoughts and views of *e-fluentials* are echoing through the online world. On the topic of current events alone, an estimated 102 million opinions

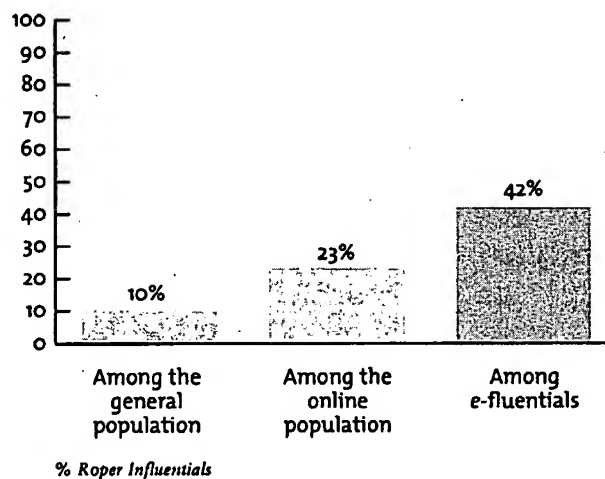
**On the topic of current events,
an estimated 102 million opinions
are given by *e-fluentials*.**

are given annually. With approximately 109 million Americans online, this number of recommendations nearly matches the total online population. *E-fluentials* also give an estimated 96 million recommendations on new technologies and 88 million opinions on companies and business.

TOPIC	ESTIMATED NUMBER OF RECOMMENDATIONS
News Events	102 Million
New Technologies	96 Million
Hobbies	94 Million
Companies and Business	88 Million
Health	81 Million
Products	73 Million
Jobs	71 Million
Entertainment	68 Million

E-fluentials are also Influentials

Although *e*-fluentials navigate the Internet with confidence and ease, their realm of influence is not limited to the online world. Offline, *e*-fluentials are neither timid wallflowers nor nerdy technophiles. Rather, they are powerful, connected opinion leaders who are as comfortable mingling in a roomful of people as they are surfing the Net. An impressive 42% of *e*-fluentials fit the traditional Roper Starch definition of Influentials, versus only 10% of the greater American population. The Influentials, first identified by Roper Starch in the 1940s, influence the lives of others in their workplaces and communities to a much greater extent than other Americans.



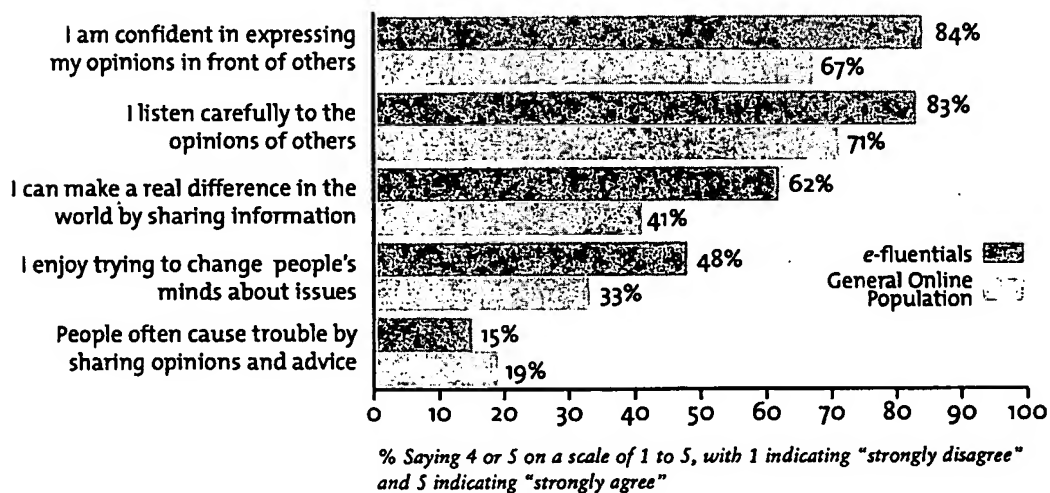
Influentials are strictly defined as people who have done three or more items from a list of political or social activities in the past year. This includes holding a political office, working for a political party, making a speech, writing a letter to the editor or an op-ed piece, or serving on a committee of a local organization. More broadly, Influentials have been leaders in many of the country's key social and political issues and have set cultural and consumer trends. They are society's change agents, sharing facts and opinions with friends, co-workers, family and neighbors on topics ranging from health to family matters to politics to restaurants, all the while exerting an influence that ripples outward to greater numbers.

E-fluentials are Avid Communicators

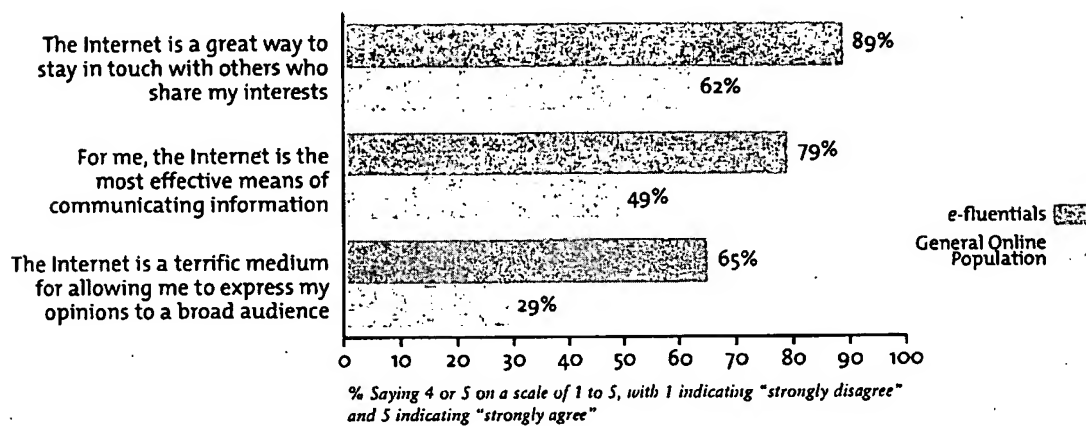
E-fluentials are an elite yet highly engaged subgroup of the Internet population. They communicate with more people online, regularly e-mailing twice as many people as general Internet users. By definition, they are significantly more likely to provide feedback to Web sites, post to bulletin boards or actively participate in newsgroups.

Avid communicators, e-fluentials know a dialogue means give and take, and they are adept at both. They are eager both to learn from others and share what they already know. More than eight in ten (84%) e-fluentials are confident in expressing their opinions, compared to less than seven in ten (67%) average online users. Moreover, nearly half (48%) of e-fluentials say they actually enjoy changing people's minds about issues, while only a third (33%) of other users say the same. At the same time, the vast majority are also skilled listeners, reporting that they listen carefully to the opinions of others (83% say they agree with this statement versus 71% of online users).

An elite, yet highly engaged subgroup of the Internet population.



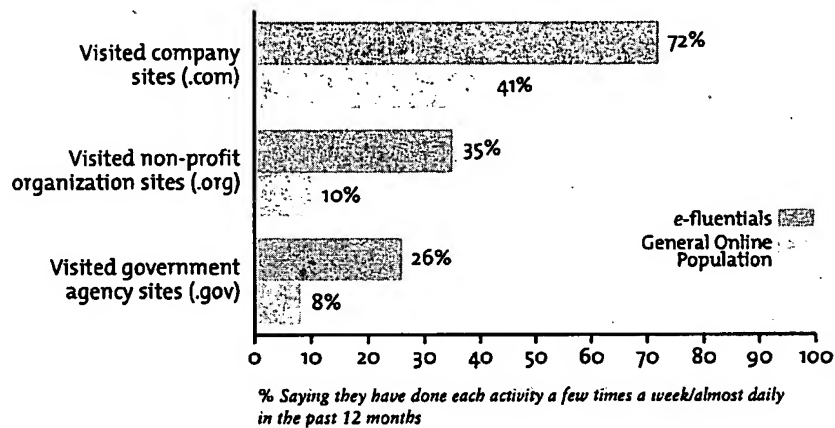
Not only do *e*-fluentials value dialogue and information exchange – they overwhelmingly believe that the Internet is the best place for it. A large majority (65%) of *e*-fluentials characterize the Internet as a “terrific medium for allowing me to express my opinions to a broad audience,” compared to a mere 29% of other users. Eight in ten (79%) find the Internet the most effective mode of information exchange, in contrast to five in ten (49%) in the general online population.



For *e*-fluentials, sharing information creates a venue for positive change. More than six out of ten (62%) believe they make a difference in the world through exchanging information, compared to four in ten (41%) general users. At the same time, a slightly lower proportion worry that sharing opinions and advice can cause trouble (15% versus 19% of online users).

E-fluentials are Information Sponges

E-fluentials crave knowledge. They absorb more information than general Internet users and glean it from a more diverse array of sources. All types of Web sites attract e-fluentials. Moreover, a greater proportion of e-fluentials visit company Web sites (72% vs. 41%), non-profit sites (35% vs. 10%) and government sites (26% vs. 8%). While many Internet users merely seek out the familiar when they go online, this is not the case for e-fluentials. They are more open to new information providers, visiting news and information sites that do not have an offline sponsor three times as much as other users (34% vs. 11%).

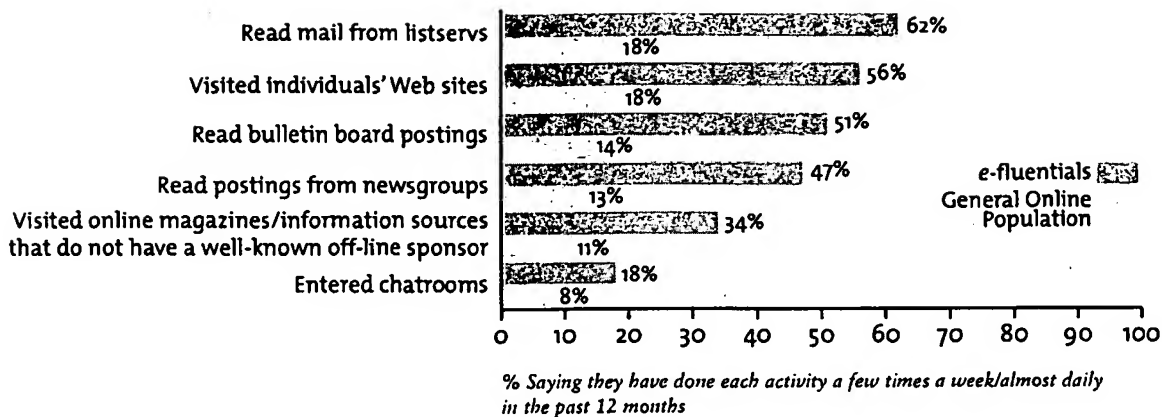


E-fluentials are also drawn to Web sites that are more unmediated and freeform. They like sites that are interactive and that allow users to shape a portion of a site's content. For example, e-fluentials are much more likely to visit individual Web sites (56% vs. 18%), bulletin board postings (51% vs. 14%) and postings from newsgroups (47% vs. 13%) than typical users.

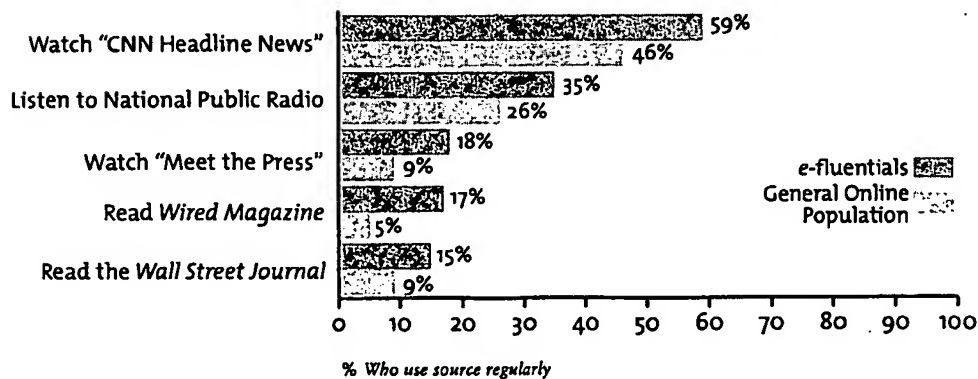
Their own best editors, e-fluentials want to sift through information and make their own judgments as to its credibility and worth.

Three out of four e-fluentials (76%) agree that "on the Internet, I get to choose what information is important to learn about, unlike offline sources where an editor or producer makes these decisions." Only three out of five general users (58%) concur with this statement.

E-fluentials want to sift through information and make their own judgments as to its credibility and worth.

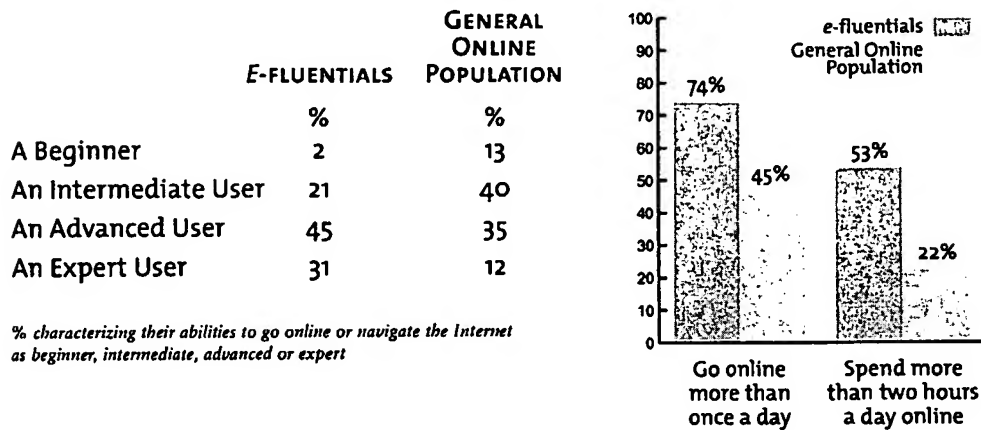


E-fluentials do not rely on the Internet as their only source of information. They look to radio, television and print media too. Just as on the Internet, e-fluentials dominate in their usage of offline sources of information. More e-fluentials watch "CNN Headline News" (59% vs. 46%), listen to National Public Radio (35% vs. 26%), and watch "Meet the Press" (18% vs. 9%). Compared to other online users, a greater number of e-fluentials read publications like *Wired Magazine* (17% vs. 5%) and the *Wall Street Journal* (15% vs. 9%).



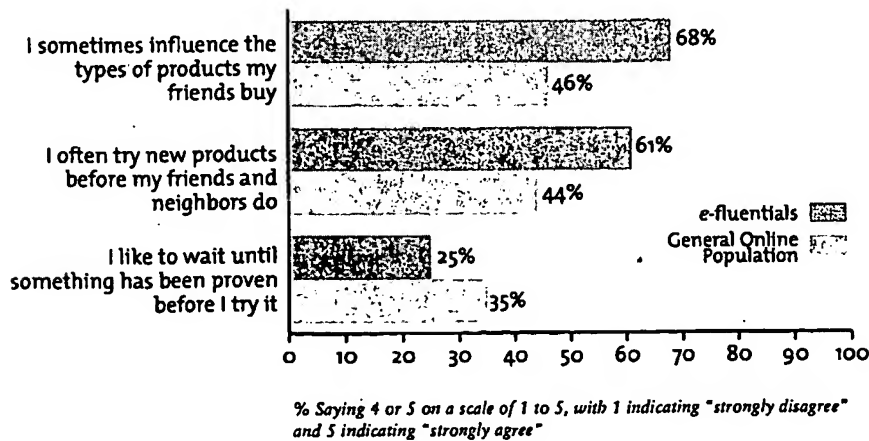
E-fluentials are Technologically Savvy

E-fluentials are Internet experts. Three out of four (76%) say they are advanced or expert users, in contrast to half (47%) of general users. A large majority of e-fluentials go online at least once a day (74% vs. 45%) and half spend at least two hours online each day (53% vs. 22%). Moreover, e-fluentials have been online an average of 1.4 years longer than other users, a significant head start in Internet time!



E-fluentials are New Product Innovators

The e-fluentials' inclination toward new innovations and technologies holds true for their buying patterns as well. E-fluentials are early adopters of new products. Compared to typical online users, a greater proportion of e-fluentials try new products before their friends and neighbors (61% vs. 44%) and influence the products others buy (68% vs. 46%).



III. DEMOGRAPHICS

Overall, *e*-fluentials do not differ much from the general online population. Both groups have an average age of about 42 years and an average household income of approximately \$53,000. Over half of both populations have a college degree (54% vs. 55% of online users), and a majority (69% vs. 62%) work full time.

However, *e*-fluentials do differ from typical users on certain characteristics. They are more likely than other users to be male (58% vs. 49%), and a slightly greater number of *e*-fluentials are likely to be single or to have never married (22% vs. 16%). Surprisingly, they are also somewhat more likely to have one or more children (54% vs. 48%).

The overall similarity of the two populations means that *e*-fluentials cannot easily be identified by demographics alone. As is true with the traditional Roper Influentials, they can only be found by closely examining their attitudes, perceptions and behaviors.

IV. METHODOLOGY

This research is based on a survey conducted in June 1999 among 2,014 Internet users. The interviews were conducted online and lasted approximately 20 minutes. The margin of error at the .95 confidence levels for the entire sample is plus or minus 2 percentage points. The margin of error for the *e*-fluentials subgroup is plus or minus 6 percent.

Survey respondents were recruited from a panel of 100,000 online households; respondents were randomly selected to participate and the sample was balanced to be demographically representative of the United States. National Family Opinion, through which the online panel was utilized, has the following built-in quality-control safeguards:

- Respondents are pre-screened by NFO, reducing the possibility of fraudulent or "professional" responses
- The survey is password protected (i.e., only respondents who are selected can take the survey and they can only take the survey once)

E-fluentials were identified through cluster analysis, a multivariate method that enabled us to segment respondents into groups of online users who reported similar patterns of online behaviors. One of these groups is the *e*-fluentials, a subgroup of users that regularly communicates to audiences through a wide variety of online channels including newsgroups, bulletin boards and e-mails. Specifically, *e*-fluentials are more likely to send e-mails to companies and politicians, participate in chat rooms, and post to bulletin boards and newsgroups.

***E*-fluentials Frequently:**

- Send e-mails to companies
- Send e-mails to politicians
- Send e-mails to well-known news and media companies
- Make friends online
- Make business contacts online
- Provide feedback to Web sites
- Forward news and Web site information to others
- Participate in chat rooms
- Post to bulletin boards
- Post to newsgroups
- Post to listservs

Note: This segment was identified by cluster analysis

Evidence Appendix E



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,166	01/13/2004	Edward B. Keller	UNI29 111	3545
7590 John M. Johnson Carter Ledyard & Milburn LLP 2 Wall Street New York, NY 10005			EXAMINER MEINECKE DIAZ, SUSANNA M	
			ART UNIT 3694	PAPER NUMBER
			MAIL DATE 08/23/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/757,166

Applicant(s)

KELLER ET AL.

Examiner

Susanna M. Diaz

Art Unit

3894

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 21 June 2007.

2a) ☐ This action is FINAL.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-11 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 21, 2007 has been entered.

Claims 1-11 have been amended.

Claims 1-11 are presented for examination.

Response to Arguments

2. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection, which are necessitated by Applicant's claim amendments.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claim 1 sets forth that the invention is a method for identifying individuals in a population having a greater probability than other individuals in the population of influencing the choices made by individuals in the population; however, the body of the claim does not accomplish what the preamble set out to do. Consequently, the metes and bounds of the claimed invention are not clear.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Under the statutory requirement of 35 U.S.C. § 101, a claimed invention must produce a useful, concrete, and tangible result. For a claim to be useful, it must yield a result that is specific, substantial, and credible (MPEP § 2107). A concrete result is one that is substantially repeatable, i.e., it produces substantially the same result over and over again (*In re Swartz*, 232 F.3d 862, 864, 56 USPQ2d 1703, 1704 (Fed. Cir. 2000)). In order to be tangible, a claimed invention must set forth a practical application that generates a real-world result, i.e., the claim must be more than a mere abstraction (*Benson*, 409 U.S. at 71-72, 175 USPQ at 676-77). Additionally, a claim may not preempt abstract ideas, laws of nature or natural phenomena nor may a claim preempt every "substantial practical application" of an abstract idea, law of nature or natural

Art Unit: 3694

phenomena because it would in practical effect be a patent on the judicial exceptions themselves (*Gottschalk v. Benson*, 409 U.S. 63, 71-72 (1972)). (Please refer to the "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" for further explanation of the statutory requirement of 35 U.S.C. § 101.)

Claim 1 produces the result of validating a plurality of predictive variables to create a database scoring algorithm; however, the variables and scoring algorithm are so broadly recited that it is difficult to assess how such a result is useful and practical in the real world. At present, the variables and scoring algorithm are not specific and they reflect nothing more than a mere abstraction. It should be noted that dependent claim 2 is statutory because the step of analyzing the answers by the individuals in the population to determine which of the individuals in the population have a greater probability than other individuals in the population of influencing choices made by individuals in the population demonstrates a useful and practical application of the claimed predictive variables and database scoring algorithm.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burson-Marsteller's e-fluentialsSM research, as disclosed in Burson-Marsteller's archived e-fluentials web site, retrieved from [URL: <http://web.archive.org/.../efluentials.com...>], herein referred to as "Burson-Marsteller's e-fluentialsSM research," and the article "Ninety Percent of Online Influentials Turn to Company Web Sites For Corporate Information, But Only 17 Percent Find Them Credible," herein referred to as "Ninety Percent." The web pages have been archived by web.archive.org on June 1, 2002, February 3, 2003, and February 15, 2003. "Ninety Percent" makes specific reference to the efluentials web site <http://www.efluentials.com> and to Burson-Marsteller's e-fluentialsSM research and, therefore, is deemed to provide further information regarding features inherent to Burson-Marsteller's e-fluentialsSM research.

E-fluentials discloses a method for identifying individuals in a population having a greater probability than other individuals in the population of influencing the choices made by individuals in the population comprising:

[Claims 1, 6] a. determining if each individual in a first population is influential (Burson-Marsteller's e-fluentialsSM research: Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential. "Representing 10% of the online population, approximately 11 million users, this group reaches more people on more topics than the average online users." Pages 5-23 show the results of an E-fluential analysis);

[Claims 2, 7] wherein determining if each individual in the first population is influential comprises:

a. formulating queries to be answered by an individual in the first population such that the answers by an individual in the population indicate whether the individual has a greater probability than other individuals in the population of influencing choices made by individuals in the first population (Burson-Marsteller's e-fluentialsSM research: Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential. "Representing 10% of the online population, approximately 11 million users, this group reaches more people on more topics than the average online users");

b. providing the queries to individuals in the population (Burson-Marsteller's e-fluentialsSM research: Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential; Page 3 -- E-fluential quiz questions are shown); and

c. analyzing the answers by the individuals in the population to determine which of the individuals in the population have a greater probability than other individuals in the population of influencing choices made by individuals in the population (Burson-Marsteller's e-fluentialsSM research: Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential. Pages 5-23 show the results of an E-fluential analysis);

[Claims 3, 8] wherein the choices made by individuals are selected from the group consisting of:

consumer product decisions, consumer service decisions, political issue decisions, political candidate decisions, personal finance decisions, investment

Art Unit: 3694

decisions, real estate decisions, insurance decisions, travel decisions, and leisure decisions (Burson-Marsteller's e-fluentialsSM research: Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., a decision relating to politics, and making friends online, e.g., a leisure decision);

[Claims 4, 9] wherein the queries are based on factors selected from the group consisting of:

written or called any politician at the state, local, or national level; attended a political rally, speech, or organized protest of any kind; attended a public meeting on town or school affairs; held or run for political office; served on a committee for some local organization; served as an officer for some club or organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; signed a petition; worked for a political party; made a speech; written an article for a magazine or newspaper; and been an active member of any group that tries to influence public policy or government (Burson-Marsteller's e-fluentialsSM research: Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at the state, local, or national level), and sending e-mails to well-known news and media companies such as Time, Newsweek, or CNBS, e.g., writing a letter to a newspaper or magazine. The role of the recited editor is not defined in such a way that it affects the structure or functionality of the claimed invention; therefore, any individual who receives e-mail at a well-known news and media company from the potential E-fluential individual can be interpreted as the recited "editor");

Art Unit: 3694

[Claims 5, 10] wherein the queries are based on factors selected from the group consisting of:

written or called any politician or contacted any government official at local regional or national level; attended a political rally, speech or event; attended a public meeting on town or school affairs; led or served on a committee on some local organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; made a speech or gave a talk to a group; been an active member of a group that tries to influence public policy or create change in the community; asked a question in a public meeting; made a complaint to a store, company, or organization; made a sizable donation to a local or national organization; attended business lunches or dinners on a regular basis, and organized a special social event (Burson-Marsteller's e-fluentialsSM research: Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at a local, regional, or national level));

[Claim 11] wherein the additional informational data is based on factors selected from the group consisting of:

household size, household income, occupation, presence of young adult in household, retail purchase activity, political affiliation, corrective lenses, golf participant, cd player owner, personal or home computer owner, pc operating system type, religious or inspirational reader, religiously active, active in theater or performing arts, active in general arts or culture, active in current affairs or politics (Burson-Marsteller's e-

fluentialsSM research: Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., active in politics).

Regarding claims 1 and 6, the Burson-Marsteller's e-fluentialsSM research selects e-fluentials using a predictive algorithm based on their earlier research ("Ninety Percent": ¶ 7). This research has been used to identify which characteristics (i.e., variables) are most closely associated with e-fluentials (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential." (Pages 5-23 show the results of an E-fluential analysis). While the e-fluential references do not expressly disclose how the predictive algorithm is performed, it remains evident from these references that a smaller group of the most influential people are identified based on a collection of characteristics (or variables) normally associated with the most influential people in a group. For example, the e-fluentials web site explains that e-fluentials frequently perform the activities that are the subject of the quiz used to identify e-fluentials, such as sending e-mails to politicians and well-known news and media companies (Burson-Marsteller's e-fluentialsSM research: pages 3, 11, and 23). Since these variables are determined to be useful and predictive of the most influential people in a group, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the e-fluentials research to provide a plurality of data vectors, wherein each data vector in the plurality of data vectors corresponds to an individual in the first population, and wherein each data vector contains information corresponding to set of descriptive

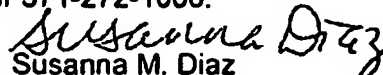
variables and identifying a plurality of predictive variables from the set of descriptive variables wherein the plurality of predictive variables substantially correlate with an individual in the first population being determined to be influential in order to practically apply Burson-Marsteller's past research to make future predictions regarding which people are the most influential within a group, thereby perpetuating the usefulness of such research over time. Additionally, Official Notice is taken that it was old and well-known in the art of predictive modeling at the time of Applicant's invention to validate predictive variables (used to create an algorithm) on a second group of test subjects; validation of the predictive variables helps to ensure that the model is taking into account the most effective variables at making accurate predictions. Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to validate e-fluentials' predictive model to incorporate the step of validating the plurality of predictive variables on a second group of test subjects to create a database scoring algorithm (e.g., by selecting a second population, applying the database scoring algorithm to a plurality of test data vectors to determine a group of influential individuals, wherein each test data vector corresponds to an individual in the second population, wherein each data vector contains information corresponding to the plurality of predictive variables, and wherein the group of influential individuals represent a subgroup of the second population and are predicted to have a higher probability of being influential with respect to the second population in general) in order to help ensure that the model is taking into account the most effective variables at making accurate predictions.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Susanna M. Diaz
Primary Examiner
Art Unit 3694

August 20, 2007